

Andy Newkirk

From: Andy Newkirk
Sent: Wednesday, November 27, 2019 9:12 AM
To: Andy Newkirk (anewkirk@cityofgoleta.org)
Subject: FW: NZO AE Overlay Cooments

From: TROY WHITE [twhite@twlandplan.com]
Sent: Tuesday, November 26, 2019 12:05 PM
To: Anne Wells; Peter Imhof
Cc: Marc Winnikoff
Subject: NZO AE Overlay Cooments

Dear Anne/Peter:

Please see the attached. Kindly let us know what you think...

Thanks,

Troy A. White, AICP
PRINCIPAL

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MEMO

TO: ANNE WELLS
CC: PETER IMHOF
FROM: TROY A. WHITE, AICP
DATE: 11/26/2019
SUBJECT: DRAFT NEW ZONING ORDINANCE (NOV. 2019)
AIRPORT ENVIRONS OVERLAY COMMENTS/ CONCERNS

With respect to the City of Goleta's Draft New Zoning Ordinance (NZO), I would like to bring to the City's attention that the proposed changes from the F-Overlay under the existing Zoning Ordinance to the proposed Airport Environs (AE) Overlay under the NZO appear to prohibit most retail/hotel uses within the Approach Zone, despite the fact that these areas have been designated for such commercial activity within the General Plan, the existing Zoning Ordinance, and the draft New Zoning Ordinance (NZO).

This of particular concern for properties located along the Storke Road commercial corridor (including the Target Shopping Center, Camino Real Marketplace, The Grange/ Storke Plaza, Zizzo's, Courtyard Marriott, Hilton Garden Inn, etc.). These properties are located within the Santa Barbara Municipal Airport's Approach Zone (< 1 mile from runway).

The existing Zoning Ordinance appears to allow for greater discretion by both the City and Airport Land Use Commission (ALUC) with respect to permissible uses within the Airport Land Use Plan's (ALUP) Approach Zone. Under the NZO, the City requires ALUC and Airport consultation for all development projects, not just legislative acts.

According to the Santa Barbara County Airport Land Use Plan (1993), the purview of the ALUC in land use planning is limited to:

- height restriction recommendations on new buildings near airports;
- land use regulation recommendations to assure safety of air navigation;
- achievement of compatible land uses in the vicinity of airports to the extent that land is not already devoted to incompatible uses.

Table 4-1 (contained with Chapter 4 of the ALUP) indicates that General Merchandise-Retail, Food-Retail, and Eating and Drinking are uses generally not compatible in the Approach Zone and that Personal and Business Services should not result in large concentrations of people. It should be noted, however, that the ALUC has previously determined that the City's General Plan and Zoning Ordinance, which allow General Merchandise-Retail, Food-Retail, and Eating and Drinking as permitted uses along the Storke Rd commercial corridor, are compatible with the ALUP.

As stated in the ALUP Chapter 5, "the policies presented in this plan are general in nature. They are based on federal and state standards for noise and safety, and are designed to be adapted to individual cases."

Further, it should be noted that the 25 person per acre threshold oft referred to within the ALUP is meant not as a limitation in the maximum number of persons a site might accommodate, but exceedance of this density standard is considered only a threshold for additional ALUC review.

It appears that most retail activity along the Stoke Road commercial corridor would not be immediately consistent with the ALUP's Table 4-1 (LAND USE GUIDELINES FOR SAFETY COMPATIBILITY). It is unclear if the City intends for the ALUP Table 4-1 to dictate City retail development/ redevelopment policy relative to Section 17.16.040.C.

Is an "incompatible" use a "prohibited" use? Who determines which and how often is such a determination required? Is it required for every project, regardless of how small? How does Table 4-1 related to the rest of the ALUP. When the new Airport Land Use Compatibility Plan (ALUCP) is adopted (presumably, in 2020) will the reference to Table 4-1 still apply?

Would a small addition and/or change of use application for retail activity within an area designated/zoned for retail within the Approach Zone (<1 mile) require a zoning ordinance amendment in order to comply with 17.16.040.C? Would such an application require formal action by the ALUC despite the fact that no legislative act is proposed?

I have a client who has been working earnestly for several years to redevelop and enhance his retail center along the Storke Rd commercial corridor—the project would not result in any new square footage (net building area). City Planning staff has recently pointed out that the project could not likely be approved under the NZO. I would greatly appreciate any efforts that City staff could provide to elucidate this issue and/or to suggest revisions to the NZO before it is adopted.

Thank you for your thoughtful consideration of these questions/comments. Should you have any questions, concerns or require additional information, please do not hesitate to give me a call at (805) 698-7153. I may also be e-mailed at twhite@twlandplan.com

ATTACHMENTS:
ZONING/ ALUP EXCERPTS

ARTICLE III - INLAND ZONING ORDINANCE (2001)—EXCERPTS

SEC. 35-247.2. APPLICABILITY OF THE F OVERLAY DISTRICT REGULATIONS.

The provisions of this F Overlay District apply within the Airport Clear and Approach Zones, as such zones are described in Sec. J5-247.3 of these regulations. In addition, the provisions of Sec. 35-247.5.2 apply within the Airport Land Use Commission Planning Boundaries, as such Boundaries are depicted on the maps of the Santa Barbara County Airport Land Use Plan.

Within the areas subject to this overlay district, all uses of land shall comply with the requirements of the applicable base zoning district, provided, however, that all development shall comply with any additional requirements set forth in this overlay district. In cases where the regulations of this overlay district conflict with the regulations of the base zoning district, the more restrictive regulations shall take precedence.

On properties subject to the F Overlay District, any application for a development permits which is determined by the County to be consistent with the provisions of this overlay district shall not be subject to review by the Santa Barbara County Airport Land Use Commission (ALUC).

However, all applications determined by the County to be inconsistent or potentially inconsistent with the provisions of this overlay district shall be referred to the A L U C for a determination as to whether the application IS consistent with the provisions of the Airport Land Use Plan (ALUP) itself. No permits for projects determined by the County to be inconsistent or potentially inconsistent with the provisions of this overlay district shall be approved or recommended for approval until the A L U C has reviewed the application and made its determination of the project's consistency with the ALUP; however, the failure of the A L U C to render such determination within sixty (60) days of the referral shall be construed as a finding that the proposed development is consistent with the ALUP. In the case of discretionary permits approved by the Planning Commission and/or Board of Supervisors, as well as both discretionary and ministerial permits heard by either body on appeal, the project may be approved by a majority vote of the total membership of the Commission and/or Board accompanied by findings, based upon substantial evidence in the public record, that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code §21670.

In all instances where action is proposed to adopt or amend any portion of the Comprehensive Plan and/or any specific plan, zoning ordinance, or building regulation, where such action may apply to any property located within a Clear and/or Approach Zone, the proposed action shall be referred to the A L U C for determination as to the consistency of the proposed action with the adopted A L U P . . Any finding by the A L U C that the proposed action is not consistent with the ALUP, including recommended project modifications and/or conditions deemed necessary by the A L U C to ensure consistency of a project with the ALUP, may be overridden only by a two-thirds vote of the total membership of the Board of Supervisors accompanied by findings, based upon substantial evidence in the public record, that the proposed action is consistent with the purpose and intent expressed in Public Utilities Code § 21670.

SEC. 35-247.4. LAND USE REGULATIONS WITHIN AIRPORT CLEAR AND APPROACH ZONES

3. AIRPORT APPROACH ZONES

The following uses generally are not permitted within one mile of the runway end in the Airport Approach Zones, unless found consistent with the ALUP by the ALUC or approved by the Board of Supervisors upon a two-thirds vote of its total membership with specific findings, based upon substantial evidence in the public record, that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code § 21670:

- a. Residential development, except for reconstruction, alterations, construction of new single-family homes on existing legal lots and single-family residential land divisions representing a density less than or equal to four units per gross acre;*
- b. Nonresidential development which would result in large concentrations of people (over the ALUC's review threshold of twenty-five (25) persons per gross acre), including but not limited to schools, office buildings, shopping centers, hospitals, and stadiums.*

DRAFT NEW ZONING ORDINANCE (NZO; NOV. 2019) – EXCERPTS

CHAPTER 17.16 -AE AIRPORT ENVIRONS OVERLAY DISTRICT

17.16.030 CONSULTATION REQUIRED

The City must consult with staff of the Airport Land Use Commission (ALUC) and the Santa Barbara Airport Department for development projects and legislative acts within the Clear or Approach Zones as defined in the Santa Barbara County ALUP, as well as any development proposed within the 60 dBA Community Noise Equivalent Level (CNEL) noise exposure contour as depicted on the Noise contour map in the most recent ALUC-adopted ALUP.

17.16.040 Use Restrictions

C. Non-Residential Uses. *All non-residential uses within the Clear and Approach Zones must be consistent with ALUP Table 4-1.*

1. Prohibited Uses. *The following uses are not permitted within the Airport Clear and Approach Zones unless such use is found consistent with the ALUP by the ALUC or is approved by the City Council upon a two-thirds vote with specific a finding that the proposed development is consistent with the purpose and intent expressed in Public Utilities Code, Section 21670.*

a. Hazardous installations or materials such as, but not limited to, oil or gas storage and explosive or highly flammable materials.

b. Any use which may result in a permanent or temporary concentration of people greater than 25 persons per acre.

ALUP (1993) – EXCERPTS/SUMMARY

ALUP TABLE 4-1 SUMMARY:

LAND USE GUIDELINES FOR SAFETY COMPATIBILITY, APPROACH ZONE < 1MILE FROM RUNWAY):

BUILDING MATERIAL-RETAIL: Conditionally Compatible (3)

GENERAL MERCHANDISE-RETAIL: Not Compatible (2)

FOOD-RETAIL: Not Compatible (2)

EATING AND DRINKING: Not Compatible (2)

PERSONAL AND BUSINESS SERVICES: Conditionally Compatible (3)

(2) Use not compatible in approach zone within one mile of the runway end. Use subject to ALUC review if more than one mile from the runway end.

(3) Use subject to ALUC review if they result in large concentrations of people underneath downwind and base legs or departures paths of frequently used airport traffic patterns. The Airport Planning Advisory Committee will provide assistance to the ALUC and its staff in this determination. Threshold for review of "large concentrations" is on the order of 25 people per acre for non-residential uses...