

CITY OF MOUNTAIN VIEW
RESOLUTION NO.
SERIES 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW
MAKING FINDINGS REQUIRED BY CALIFORNIA PUBLIC UTILITIES CODE SECTION 21676 AND
NOTIFYING THE SANTA CLARA COUNTY AIRPORT LAND USE COMMISSION (ALUC)
OF THE CITY'S INTENTION TO FIND THE PROPOSED ZONING ORDINANCE TEXT AMENDMENTS
TO CHAPTER 36 (ZONING) OF THE CITY CODE TO ALIGN WITH RECENTLY ENACTED STATE LAW,
IMPLEMENT 2023-2031 HOUSING ELEMENT PROGRAMS, MODIFY AND CLARIFY
ADMINISTRATIVE AND DEVELOPMENT REVIEW PROCEDURES, AND MAKE OTHER
NONSUBSTANTIVE AMENDMENTS, ARE CONSISTENT WITH THE PURPOSES SET FORTH IN
CALIFORNIA PUBLIC UTILITIES CODE SECTION 21670 AND TO OVERRULE
THE ALUC DETERMINATION THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS
ARE INCONSISTENT WITH CERTAIN POLICIES IN THE COMPREHENSIVE LAND USE PLAN
FOR MOFFETT FEDERAL AIRFIELD

WHEREAS, pursuant to the provisions of Section 21676, subsection (b), of the California Public Utilities Code, prior to the City Council's consideration of the proposed Zoning Ordinance text amendments described herein, the City referred the text amendments to the Airport Land Use Commission of Santa Clara County (ALUC) for a determination of consistency or inconsistency with the ALUC's adopted Comprehensive Land Use Plan for Moffett Federal Airfield (CLUP); and

WHEREAS, the Zoning Ordinance text amendments would align Chapter 36 (Zoning) of the City Code with recently enacted State legislation focused on regulations of accessory dwelling units (ADUs), new allowed residential land uses identified by State Law such as low-barrier navigation centers and employee housing, parking requirements, hydrogen fueling stations, and microenterprise kitchen home occupations, would implement certain 2023-2031 Housing Element programs, and would make administrative, process, or nonsubstantive changes to improve internal consistency and usability, and to align with current practices or regulatory changes; and

WHEREAS, as stated in the CLUP, the "CLUP establishes an airport land use planning area, referred to as the Airport Influence Area (AIA), which sets the boundaries for application of ALUC Policy. The CLUP contains the relevant policies for land use compatibility and specific findings of compatibility or incompatibility of land uses within the AIA. Of particular interest to the ALUC are areas 'not already devoted to incompatible uses' and, more specifically, undeveloped lands within the AIA. The planning effort is focused on identifying these lands because the policies and standards of the plan are intended to control the compatibility of future development in these areas."; and

WHEREAS, on November 15, 2023, the ALUC, acting pursuant to its authority under Public Utilities Code Section 21676, determined that the Zoning Ordinance text amendments are inconsistent with ALUC height, safety, and noise policies, as defined in the CLUP, more specifically and for the following reasons: (1) the ALUC found the proposed text amendments are inconsistent with the CLUP Part 77, Surfaces, as the text amendments do not explicitly include structure height limits and could result in new development being located in structures exceeding the Part 77 height limits; (2) the ALUC found the proposed text amendments are inconsistent with Safety Zone guidelines and CNEL Noise Compatibility Guidelines in the CLUP as the text amendments could result in new residential land uses that are not permitted within the CLUP's Safety Zones and would introduce new residential land uses within CNEL contours where these land uses are unacceptable per the CLUP; and (3) the ALUC found the proposed text amendments are inconsistent with CLUP Policy G-5 as the amendments may increase development and density within the Moffett Field Airport Influence Area (AIA) and, therefore, recommends additional text amendments be made to the Zoning Ordinance to require aviation easements where legally allowed; and

WHEREAS, pursuant to the provisions of Public Utilities Code Section 21676, subsection (b), the City Council may, after a public hearing on the matter, propose to overrule an ALUC determination by a two-thirds vote if it makes specific findings that the local government's proposed action is consistent with the purposes set forth in Public Utilities Code Section 21670: to provide for the orderly development of each public use airport in the State and the area surrounding these airports so as to promote the overall goals and objectives of California airport noise standards and prevent the creation of new noise and safety problems; and 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 these areas are not already devoted to incompatible uses; and

WHEREAS, on December 5, 2023, the City Council held a public hearing and heard and considered all information presented and submitted, including the proposed Zoning Ordinance text amendments, the ALUC determination, a letter dated November 15, 2023 from the City's Planning Division to the ALUC related to this item and the Council staff report; now, therefore, be it

RESOLVED that the City Council of the City of Mountain View hereby finds with regard to the proposed Zoning Ordinance text amendments (the "Project") and the ALUC's determination of inconsistency with policies and guidelines in the CLUP:

1. The recitals above are incorporated herein as findings.
2. The Project is consistent with the purposes of the Public Utilities Code as stated in Public Utilities Code Section 21670 to provide for the orderly development of each public use airport in the State and the area surrounding these airports so as to promote the overall goals and objectives of California airport noise standards and prevent the creation of new noise and

safety problems, and 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 the public airports to the extent that these areas are not already devoted to incompatible uses.

3. ALUC CLUP Policy H-1 provides: "Any proposed new construction or expansion of existing structures that would penetrate any of the CLUP Part 77 imaginary surfaces of the Airport is considered an incompatible land use, unless either the FAA has determined that the proposed structure does not constitute a hazard to air navigation or the Caltrans Aeronautics Program has issued a permit allowing construction of the proposed structure."

The Project is not modifying or increasing existing height limits for new residential land uses or ADUs. The amendments to the ADU regulations are proposing to allow two-story ADUs that are shorter in height than the current height allowances for ADUs. The amendments propose two-story ADUs to be permitted at a height of 18' within two floors (as required by State law), but currently ADUs are permitted up to 28' if contained to one story above an accessory structure (e.g., garage). Additionally, the highest mean sea level nearest the Part 77 182' height limit occurs at 717 Tiana Lane, which is at 125' above sea level, and permits up to a 28' tall ADU structure, resulting in a total structure height at 153' above mean sea level, which is below the maximum Part 77 flight surface of 182' above sea level. Therefore, the existing regulations are consistent with the Part 77, Surface, height limits, and the proposed amendments do not change that consistency.

4. With respect to consistency with the CLUP's Safety Zone guidelines, the Zoning Ordinance text amendments related to new residential land uses will not impact parts of Mountain View that are located within any of the Safety Zones for the Moffett Federal Airfield. The zoning districts located within the Safety Zones for Moffett Federal Airfield are in, and regulated by, the P(41) (East Whisman) Precise Plan. Precise Plans are separately adopted zoning documents with land use and development standards applicable within the Precise Plan boundary, and no changes to the East Whisman Precise Plan or any Precise Plans are proposed as part of these Zoning text amendments. Therefore, no residential land uses are introduced in areas covered by the Safety Zones as part of the text amendments and, therefore, the text amendments are consistent with the CLUP's Safety Zone guidelines.

5. With respect to consistency with the CLUP's noise guidelines, the Zoning Ordinance text amendments related to new residential land uses are consistent with the CNEL contour boundaries of the CLUP as the new residential land uses are not being proposed in areas with contours greater than 65 dB. Per the CLUP, areas identified to have noise levels greater than 65 dB are found to be unacceptable for residential land uses. The Zoning Districts that contain areas in the City with 65 dB or greater are areas within the P(41) (East Whisman) Precise Plan and, as indicated above, this Precise Plan is not being modified as a part of these text amendments and would need to be separately modified to incorporate changes to land use and development standards. No residential land uses are introduced in areas that are incompatible

with Table 4-1 of the CLUP and, therefore, the text amendments are consistent with the CLUP's noise compatibility policies.

6. CLUP Policy G-5 notes, "Where legally allowed, dedication of an aviation easement to the United States Government shall be required to be offered as a condition of approval on all projects located within an Airport Influence Area, other than reconstruction projects as defined in paragraph 4.3.7."

The City implements this Policy by including a condition of approval for new construction projects located in the AIA to provide an aviation easement, where applicable. The proposed Zoning Code text amendments would not impact implementation of this Policy. No additional changes are needed to the Zoning Ordinance to demonstrate consistency with the CLUP.

7. The Zoning Ordinance text amendments are not increasing allowed density, height, or other development standards that will increase development activity in the AIA and, therefore, are consistent with the policies in the CLUP; and be it

FURTHER RESOLVED: Based upon all of the foregoing findings and conclusions, the City Council provides this Notice of Intention to overrule the ALUC's determination that the Zoning Ordinance text amendments to Chapter 36 are inconsistent with the policies in the CLUP; and be it

FURTHER RESOLVED: The City Council hereby directs City staff to transmit a copy of this resolution and provide the ALUC with notice of the City's intent to overrule the ALUC's determination of inconsistency for the Project; and be it

FURTHER RESOLVED: This resolution shall take effect immediately upon its adoption by the City Council.

KP/4/RESO
828-11-20-23r