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FRESNO COUNTY AIRPORT LAND USE COMMISSION AGENDA – SPECIAL MEETING

Date: Thursday, January 7, 2010
Time: 9:00 a.m.
Place: COG Sequoia Conference Room
2035 Tulare St., Suite 201, Fresno, CA

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<i>Item</i>	<i>Description</i>	<i>Enclosure</i>	<i>Action*</i>
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CALL TO ORDER

ROLL CALL

AGENDA

1. **Approve January 4, 2010 Action Summary**
2. **Action/Discussion Items**
 - A. Agenda Item A: Determine whether AL-10-01 is consistent with the Fresno County Airport Land Use Compatibility Plan for Selma Aerodrome, and take appropriate action.

Note: Prior to action by the Commission on any item on this agenda, the public may comment on that item. Unscheduled comments may be limited to 3 minutes.

3. OTHER BUSINESS

- A. Items from Staff
- B. Items from Members

4. ADJOURN

***Items listed as information still leave the option for guidance/direction actions by the Commission.**

****All enclosures are available on our website at www.fresnocog.org – Airport Land Use Commission**



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FRESNO COUNTY AIRPORT LAND USE COMMISSION Action Summary

Date: Monday, January 4, 2010
Time: 2:00 p.m.
Place: COG Sequoia Conference Room
2035 Tulare St., Suite 201, Fresno, CA

CALL TO ORDER

A meeting of the Fresno County Airport Land Use Commission (ALUC) was called to order by Chairman John Feasel at 10:00 pm.

ROLL CALL

PRESENT: Commissioners: Wilson, Feasel, Poochigian,
Proxies: Remy, Kilner, Kroll

ABSENT: Commissioners: Rapada, Perea
Proxies:

OTHERS ATTENDING: Tom Webster, Planner, Fresno COG
Laural Fawcett, Fresno COG
Stephanie Maxwell, Fresno COG
Mike Rowe, County Counsel

SPECIAL AGENDA

1. CONSIDER AND ADOPT: Approve October 5, 2009 Action Summary

Speaking in Favor: None
In Opposition: None

Action: Approved as submitted
Motion Maker: Kilner
Second: Remy
In Favor: Unanimous
Opposed: None

2. SCHEDULED PRESENTATIONS

Fresno Yosemite International Airport Master Plan Update

Kevin Meikle informed the Commission that the Fresno Yosemite International Airport was conducting a Master Plan Update. He stated that he had been working with Commission staff to ensure that the Environs Plan for the City of Fresno will be compatible with the Fresno County adopted ALUCPP. Commissioner Chuck Wilson commented on the need for a definitive answer from the National Air Guard on the status of the F-15 implementation at the Air Base because this may be an issue in the future impacting noise control and should be verified with the ANG.

3. ACTION/DISCUSSION ITEMS

A. Agenda Item A: Review AL-10-01 to determine whether the proposed 94-acre site known as the Rockwell Pond Commercial Project is consistent with the Fresno County Airport Land Use Compatibility Plan for Selma Aerodrome.

Tom Webster informed the Commission that staff had reviewed the City of Selma application to the ALUC, AL-10-01 for a determination of consistency. Mr. Webster noted to the Commission that there was a typo on the last page of the staff report in the notes section that referred Sierra Sky Park. Mr. Webster noted that it was only a typo and that the review was correctly based on the Selma Aerodrome and Fresno County Airport Land Use Policy Plan. Staff indicated that the draft EIR was reviewed and contained no significant impacts on the 4 areas under review of the ALUC.

Mr. Geringer submitted a formal letter stating his concerns about the project. One of the main concerns was the recognition that the Selma Aerodrome, also commonly referred to as the Selma Airport, is actually a privately owned and operated facility. The most important concern stated by Mr. Geringer is that the general nuisance/aviation easement and agreement requirement stipulated by Fresno County's adopted ALUPP, be solely dedicated to Selma Aerodrome Inc., with the understanding that the City of Selma does not have any ownership, and therefore should not participate in any easement agreement as described on page 4 of the January 4, 2010 Agenda Item AL-10-01. Mr. Geringer stated that FAA form 7460-1 should be filed by the developer of the Rockwell Pond Project, as it would ensure that an airspace evaluation would be conducted by the FAA, the most qualified entity, in Mr. Geringer's opinion, to evaluate the impact on the airspace around the Selma Aerodrome property.

Additionally, the lack of sufficient time to review the materials for this agenda item impacting Mr. Geringer's property, and some typographical errors such as incorrect reference to the Selma Aerodrome as Sierra Sky Park, were initially cause for lack of confidence in the accuracy of the report. After discussion with staff, prior to the meeting, Mr. Geringer's stated that he was satisfied that the recommendation was probably accurate, but also had concerns, as did the Commissioners, with the inaccuracy of the aerial map contour overlays. According to Mr. Geringer's assessment, the contours were approximately 400 yards offset in proximity to the aerial photograph of the runway area. The commission and staff concurred.

As representative for the developer of the Rockwell Pond Regional Commercial Project, Mr. Reed's assessment was that the easement would only be encumbered in Safety Zone III, the Horizontal Traffic Zone encroachment is already covered in the standard language of the Fresno County ALUPP.

Greg Martin as City Planner for the City of Selma, spoke in favor of the project stating that it was a time sensitive, economic development opportunity for the City of Selma. Mr. Feasel expressed concern that the EIR was not yet approved by the City Council of Selma. Mr. Martin explained that Council approval was contingent on Planning Commission and ALUC findings, first. Mr. Webster stated that he had reviewed the draft EIR and that the report did not indicated any impacts on the 4 areas under review of the ALUC for consideration.

The Commissioner's assessment of this was not to reject the proposal, but to have staff review map's accuracy and the proper APZ overlay before a decision could be made by the Fresno County ALUC. A special session was set for January 7, 2010, at 9:00 am for re-submittal so that the Commission could make a properly informed determination based on the correct map overlay.

Speaking in Favor: Jeff Reed, Greg Martin
In Opposition: None

Action: Due to the discrepancy observed on the aerial photo with airspace contours, identified by Selma Aerodrome Inc. and the Commissioners, a motion was made for resubmittal and a special meeting was scheduled for Thursday, January 7, 2010 at 9:00 a.m., at which time a determination would be made based on accurate information.

Motion Maker: Chuck Wilson
Second: John Feasel
In Favor: Unanimous
Opposed: None

4. Administrative Action Items

A. 30 day review of 2010

Speaking in Favor: Tom Webster
Opposition: None

Action: Tom Webster suggested that the calendar review commence and be submitted for approval at the next regularly scheduled meeting on Monday, February 1, 2010.

5. ADJOURN

Action: Adjournment of the meeting at 3:45 p.m.
Motion Maker: Feasel
Second: Wilson
In Favor: Unanimous
Opposed: None

Respectfully Submitted,

TOM WEBSTER, Planner III
Council of Fresno County Governments

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Airport Land Use Commission

Special Meeting Agenda Item No. 2 A January 7, 2010

SUBJECT: Determine whether AL-10-01 is consistent with the Fresno County Airport Land Use Compatibility Plan for Selma Aerodrome.

STAFF CONTACT: Tom Webster
(559) 233.4148 Ex. 222

RECOMMENDATION:

Staff recommends that the Commission:

- State that the Commission acknowledges that an EIR was conducted and that the draft was reviewed by ALUC staff and that the report did not indicate any significant impacts on the 4 areas under review of the ALUC for consideration.
- Determine whether the proposed application, AL-10-01 is consistent with the adopted Fresno County Airports Land Use Compatibility Plan for Selma Aerodrome and take appropriate action.

BACKGROUND:

The project site is located approximately 2,000 feet southeast of the Selma Airport. The southwestern corner of the project site, which includes proposed shops, pads and gas station, are within the Inner Approach Zone and the Horizontal Zone. The Land Use for this proposed commercial project is in the 229 acre Rockwell Pond Specific Plan within the Selma Sphere of Influence and would require annexation to the City of Selma. The project site includes a portion in the northwest of the site plan that is part of a natural drainage area that serves as a flood control and water recharge area owned by the Consolidated Irrigation District. Applications for necessary General Plan Amendment, Specific Plan Amendment, Zone Change Amendment (Rezoning), and Annexation/Reorganization for the 94 acres have been submitted for the first phase of development, detailed in the supporting documents listed below. The project location would be rezoned from AE20 to R-C.

The proposed Project consists of development of the Rockwell Pond Commercial Project, a regional shopping center planned for property located south of Rockwell Pond consisting of about 105.51 acres. The Project would be developed in two phases. Phase I will be initiated as soon as annexation and city entitlements are approved and is anticipated to be complete by 2012. Phase 2 will be initiated about five years following Phase I and is anticipated to be completed by 2017. Together, the two phases would result in approximately 973,100 square feet of retail uses. Pre-zoning and annexation of the entire 105.51 acres would occur with Phase One of the Project.

The Project site is bounded by Floral Avenue to the south, De Wolf Avenue on the west, Rockwell Pond on the north, State Route 99 on the northeast, and existing commercial development (Wal-Mart, J. C. Penny, Dollar Tree, Big Five etc.) to the east. The Project also includes amending the Selma Northwest Specific Plan, which covers the site.

DISCUSSION:

The majority of the project site is located inside the Traffic Pattern, Horizontal Surface Zones, and predominantly outside of the designated APZ Zones I-IV. The property does contain the outer corner of the Inner Approach Zone, which limits the types of new commercial uses that could be established there. The Fresno County Airports Land Use Policy Plan also restricts this designation to for mobile homes, schools, libraries, hospitals, nursing homes, and amphitheatres or similar uses as normally unacceptable.

Safety Zones III is established via Part 77, Subpart C, of the FAR. Safety Zone III is designated to protect airspace above 75 feet in the vicinity of the project, as measured from the stated elevation of the runway surface. The property of the project site that is located within the inter approach zone is predominantly parking lot with on retail store on the northeast corner of Floral and De Wolf. Building and development standard for the proposed zone designation are 35 feet maximum, well within the 75 feet height restriction for this Safety Zone III and the 150 feet of the Traffic Pattern Zone. Further, the portion of the proposed project within Safety Zone IV shall be restricted to attractions of no more than 10 people per acre.

Based upon its location within the Review Area, and in accordance with Section 21670 et seq., of the California Public Utilities Code, the project has been submitted to the Commission for a determination of consistency with the adopted Fresno County Airports Land Use Policy Plan (ALUPP):

There are four considerations in a finding of consistency with the Commission's Plan:

1 Noise:

The project site is located almost entirely within 60 dB CNEL Noise Contour with the exception of a small piece of parking lot in the 65 dB CNEL Noise Contour. The Airport/Land Use Noise Policy Criteria Table 1 of the Fresno County Airports Land Use Policy Plan lists uses to be allowed together with uses to be avoided in the 60 dB CNEL Noise Contour and Interior Noise Level Criteria Table 2 of the Fresno County Airports Land Use Policy Plan lists the maximum acceptable noise levels for commonly occurring individual noise events from exterior sources. These listed uses are identified as clearly acceptable, normally acceptable, marginal (acceptable only by Commission determination), normally unacceptable, and clearly unacceptable. Land Use

Compatibility Policies for Noise evaluates the noise criteria presented in Tables 1 and 2. The following summarizes Tables 1 and 2:

Clearly Acceptable

55-60 CNEL – Service commercial, wholesale trade, warehousing...

The activities associated with the specified land use can be carried out with essentially no interference from the noise exposure.

Normally Acceptable

55-60 CNEL – Office, retail, parks, playgrounds...

Noise is a factor to be considered in that slight interference with outdoor activities may occur. Conventional construction methods will eliminate most noise intrusions upon indoor activities.

The proposal can be found to be **consistent** with the noise regulations of the adopted ALUPP.

2. **Airspace Protection**

The majority of the project site is located inside the Traffic Pattern, Horizontal Surface Zones, and predominantly outside of the designated APZ Zones I-IV. The property does contain the outer corner of the APZ III, which limits the types of new commercial uses that could be established there. The Fresno County Airports Land Use Policy Plan also restricts this designation to for mobile homes, schools, libraries, hospitals, nursing homes, and amphitheatres or similar uses as normally unacceptable.

Safety Zones III is established via Part 77, Subpart C, of the FAR. Safety Zone III is designated to protect airspace above 75 feet in the vicinity of the project, as measured from the stated elevation of the runway surface. The piece of property of the project site that is located within the inter approach zone is predominantly parking lot with one retail store on the northeast corner of Floral and De Wolf. Building and development standard for the proposed zone designation are 35 feet maximum, well within the height restriction for this Safety Zone III and of the Traffic Pattern Zone.

The Fresno County Airports Land Use Policy Plan also restricts uses that create dust, smoke, steam, glare, etc or attract birds.

The proposed R-C (*Regional Commercial*) Zone District limits buildings or structures to well within the acceptable height limits for Safety Zones III established via Part 77, Subpart C, of the FAR.

Conditions of zoning and an Avigation Easement and Agreement will be required to limit all structures and trees to building heights imposed by FAR at this location and allow ongoing ingress and egress for the purpose of removing, marking or lighting objects, including trees, which may penetrate any surface as described under Part 77.

Based on the project site and the conditions recommended to ensure safety concerns are addressed, the proposal can be found to be **consistent** with the safety regulations of the adopted ALUPP.

3. Safety

Conditions of zoning and an Avigation Easement and Agreement will be required to limit all structures and trees to building heights imposed by FAR at this location and allow ongoing ingress and egress for the purpose of removing, marking or lighting objects, including trees, which may penetrate any surface as described under Part 77. An Avigation Easement and Agreement will also be required to prohibit uses that create dust, smoke, steam, glare, etc or attract birds.

Based on the project site and the conditions recommended to ensure safety concerns are addressed, the proposal can be found to be **consistent** with the safety regulations of the adopted ALUPP.

4. General Nuisance/Avigation Easement and Agreement

Except when overriding circumstances exist, the Fresno County ALUPP for Selma Aerodrome requires the dedication of a General Nuisance/Avigation Easement to the airport owner and the City of Selma as a condition of approval for any zoning change within the Airport's review area.

The Avigation Easement should conform to standards contained in the current Handbook and include all conditions recommended in the four considerations.

Recordation of a General Nuisance/Avigation Easement and Agreement will ensure the ability to enforce noise attenuation, FAR Part 77 airspace restrictions and safety conditions. With the recordation of this document, the proposal can be found to be **consistent** with the adopted ALUPP.

CONCLUSION:

Staff believes that the proposed City of Selma General Plan Amendment, Specific Plan Amendment, Zone Change Amendment (Prezoning) in application AL-10-01 **is consistent** with the Adopted Fresno County Airports Land Use Policy Plan and **is consistent** with adopted Airport Land Use Policy Plan standards related to noise, airspace protection, safety, and general nuisance/aviation easement and agreement subject to the recommended conditions and, therefore, recommends that the Commission:

- State that the Commission acknowledges that an EIR was conducted and that the draft was reviewed by ALUC staff and that the report did not indicate any significant impacts on the 4 areas under review of the ALUC for consideration.
- Determine that AL-10-01, City of Selma General Plan Amendment Application No. A-09-001 **is consistent** with the Adopted Fresno County Airports Land Use Policy Plan for Selma Aerodrome subject to the following conditions:

General Nuisance

1. Avigation Easement

- a. Except when overriding circumstances exist, a condition for approval of any residential subdivision or zoning change within an airport's Primary Review Area, as subsequently defined herein, shall be the dedication of an avigation easement to the airport owner or the local jurisdiction in which the proposed subdivision is located (city, if area is incorporated; Fresno County, if area is unincorporated). The avigation easement shall contain the following property rights:
- 1) Right-of-flight at any altitude above acquired easement surfaces.
 - 2) Right to cause noise, vibrations, fumes, dust, and fuel particle emissions.
 - 3.) Right-of-entry to remove, mark, or light any structures or growths above easement surfaces.
 - 4) Right to prohibit creation of electrical interference, unusual light sources, and other hazards to aircraft flight.

The easement surfaces acquired shall be based on Part 77 of the Federal Aviation Regulations except that no easement surface less than 35 feet above ground shall be acquired.

- b. As a further condition for approval of a residential subdivision or zoning change within an airports's Primary Review Area, the local jurisdiction shall, except where overriding circumstances exist, require the property owners to agree to the following:
- 1) That it is understood by the owners and owners' successors in interest that the real property in question lies close to an operating airport and that the operation of the airport and the landing and take-off of aircraft may generate high noise levels.
 - 2) That the owners shall not initiate or support any action in any court or before any governmental agency if the purpose of the action is to interfere with, restrict, or reduce the operation of the airport or the use of an airport by any aircraft.
 - 3) That the owners shall not protest or object to the operation of the airport or the landing or take-off of aircraft before any court or agency of government.

2. Buyer Notification

The Commission encourages local governments to establish a "buyer notification statement" as a requirement for the transfer of title of any property located within an airport's Primary Review Area.

This statement should indicate that the buyer is aware of the proximity of an airport, the characteristics of the airport's current and projected activity, and the likelihood of aircraft overflights of the affected property.

NOTES:

The following notes reference mandatory requirements of Fresno County or other agencies and are provided as information to the project applicant.

1. The Western Regional Office of the Federal Aviation Administration encourages the filing of an FAA Form 7460-1, Notice of Proposed Construction or Alteration in conjunction with the permitting of projects in the area of an airport to ensure compliance with Part 77 of the Federal Aviation Regulations (FAR).
2. In accordance with FAR 77, Subpart C and the Airspace Protection Policies of the ALUCP the following must be met:
 - (a) No structure, tree or other object shall be permitted to exceed the height limits established in accordance with Part 77, Subpart C, of the Federal Aviation Regulations (FAR). This criterion applies unless, in the case of a proposed object or growing tree, one or more of the following conditions exist:
 1. The object would be substantially shielded by existing permanent structures or terrain in a manner such that it clearly would not affect the safety of air navigation;
 2. The FAA has conducted an aeronautical study and either determined that the object would not result in a hazard to air navigation or made recommendations for the object's proper marking and lighting as an obstruction;
 3. The object is otherwise exempted from the requirements of FAR Part 77. In the case of an existing object, this criterion also applies unless the object exceeded the prescribed height limits prior to February 20, 1987, in which case, marking lighting will still be required.
 - (b) No object shall be permitted to be erected which because of height or other factors would result in an increase in the minimum ceiling or visibility criteria for an existing or proposed instrument approach procedure.
 - (c) Civil Airport Imaginary Surfaces described at Code of Federal Regulations Title 14, Part 77, Subpart C "Obstruction Standards," shall be used in conjunction with the above airspace conditions to determine whether the height of an object is acceptable.