RESOLUTION NO. 2007-901

Adopted by the Sacramento City Council

December 11, 2007

DIRECTING CITY STAFF TO FILE WITH SACOG AND CALTRANS (DIVISION OF AERONAUTICS) THE DRAFT RESOLUTION ADOPTING OVERRIDE FINDINGS TO SUPPORT THE APPROVAL OF THE GREENBRIAR LEGISLATIVE ENTITLEMENTS PURSUANT TO PUBLIC UTILITIES CODE SEC. 21670

BACKGROUND

A. The Board of Directors of the Sacramento Area Council of Governments (SACOG), sitting as the Airport Land Use Commission (ALUC) adopted the Comprehensive Land Use Plan for the Sacramento International Airport (CLUP) on May 20, 1999.

B. On December 7, 2005, ALUC staff provided its written review of the Project to the City of Sacramento's Planning Department. Of the three policy components of ALUC review; safety, noise, and height, ALUC's staff found the Project was not consistent with the CLUP safety policy, primarily because they found the light rail station located within the Overflight Zone inconsistent with the CLUP, which prohibits the other components of review.

C. ALUC staff found the Project's light rail station within the Overflight Zone inconsistent with the CLUP, which prohibits passenger terminals and stations within the Overflight Zone.

D. Section 21676 subdivision (b) of the Public Utilities Code and Section 65302.3 of the Government Code provide that the City Council may, after a hearing and with a two-thirds vote, overrule the ALUC. The City Council must make specific findings that the disputed portion of the proposed Greenbriar Project is consistent with the public interest purposes stated in Public Utilities Code Section 21670.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1: Staff is directed to file the draft resolution adopting override findings of inconsistency with the CLUP (attached as Exhibit A).

Table of Contents:
Exhibit A: Draft Resolution
Exhibit B: Aluc Letter Of Consistency Determination

Adopted by the City of Sacramento City Council on December 11, 2007 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmember McCarty.

Mayor Heather Fargo

Attest:

Shirley Concolino, City Clerk

EXHIBIT A – DRAFT RESOLUTION ADOPTING OVERRIDE FINDINGS OF INCONSISTENCY WITH THE CLUP

RESOLUTION NO.

Adopted by the Sacramento City Council

RESOLUTION ADOPTING FINDINGS OF FACT SUPPORTING THE CITY COUNCIL OVERRIDE OF THE AIRPORT LAND USE COMMISSION DETERMINATION THAT PROVISIONS IN THE PROPOSED GREENBRIAR PROJECT ARE INCONSISTENT WITH THE AIRPORT COMPREHENSIVE LAND USE PLAN

BACKGROUND

A. The Board of Directors of the Sacramento Area Council of Governments (SACOG), sitting as the Airport Land Use Commission (ALUC) adopted the Comprehensive Land Use Plan for the Sacramento International Airport (CLUP) on May 20, 1999.

B. The City of Sacramento received an application for development of the Greenbriar project, a 577 acre proposed development located north of Interstate 5, west of Highway 70/99, and east of Metro Air Park (Project). The City referred the Project application to ALUC for review for compatibility with the CLUP because a portion of the Project (405 acres) is within the Overflight Zone of the Sacramento International Airport. The Project proposal requests entitlements within the Overflight Zone for uses that include residential, commercial, mixed use, park and open space with water bodies, and a light-rail transit station.

C. On December 7, 2005, ALUC staff provided its written review of the Project to the City of Sacramento's Planning Department. Of the three policy components of ALUC review; safety, noise, and height, ALUC's staff reviewed the Project for consistency with the CLUP safety policy only because the Project does not implicate the other components of review.

D. ALUC found the residential and commercial uses to be compatible with the CLUP based upon the densities proposed for the Project.

E. ALUC found the parks and open spaces within the Project to be compatible with the CLUP so long as such areas do not contain facilities that lead to high concentrations of people (an average density of 25 people per acre over a 24 hour period, and not to exceed 50 persons per acre at any time), such as ball fields and playgrounds.

F. ALUC deferred to the Sacramento County Airport System (SCAS) and the Federal Aviation Administration (FAA) regarding whether the water bodies proposed for the

Project would attract wildlife and create potential conflicts with aircraft (birdstrikes), and determined that the Project will either be considered (1) compatible with the CLUP if the SCAS and FAA do not object to the proposed water features, or (2) incompatible if either of these two agencies object to the water features.

G. ALUC found the Project's light rail station within the Overflight Zone inconsistent with the CLUP, which prohibits passenger terminals and stations within the Overflight Zone.

H. Section 21676 subdivision (b) of the Public Utilities Code and Section 65302.3 of the Government Code provide that the City Council may, after a hearing and with a two-thirds vote, overrule the ALUC. The City Council must make specific findings that the disputed portion of the proposed Greenbriar Project is consistent with the public interest purposes stated in Public Utilities Code Section 21670.

I. The City has considered long-range airport development plans. The City plans to support development of the airport over the next 20 years. The local land use planning and zoning actions will serve to protect runway approaches. The City's General Plan Circulation Element includes the following goal relevant to airport protection: "Goal A: Promote general, commercial and military aviation facilities within the parameters of compatible surrounding land uses. Aviation is an important segment of Sacramento's economic vitality. In order to function as they need to, each of the four separate airport facilities desires compatible land uses within certain radii of their runways and ground operations and within certain noise contour levels. The City recognizes these important factors in land use decision making."

J. On _____, the City Council held a public hearing on [land use entitlements] The Council reviewed a proposed decision with findings to override the ALUC determination of Project inconsistencies with the CLUP, and authorized City staff to provide the proposed decision to override the ALUC.

K. On ____, after consideration of issues regarding the light rail station, parks and open space, and water features proposed within the Overflight Zone as part of the Project, the EIR for the Project, testimony, and information provided at the hearing, the City Council approved the override and adopted this resolution.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1: As more specifically found below, the Project is consistent with the purposes of Section 21670 of the Public Utilities Code in that it prevents the creation of new safety problems and protects public health, safety, and welfare by ensuring the orderly expansion of the airport and includes the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around the public airport to the extent that these areas are not already devoted to incompatible uses.

Section 2: The Project's proposal to develop parks and open space within the Overflight Zone is consistent with the purposes of the Airport Land Use Commission Law. As determined by ALUC, the proposed residential development is compatible with the CLUP based upon the densities proposed for the Project. The parks and open space will be developed to accommodate those residents, but will not be designed to attract people from outside the Greenbriar project area. Therefore, the proposed parks and open space are considered by the City Council to be compatible with the CLUP based upon the understanding that any difference in potential safety hazard associated with occupation of a residence or park site is negligible.

Section 3: The Project proposal to develop water features within the Overflight Zone is consistent with the purposes of the Airport Land Use Commission Law. The open water on the Greenbriar site will not interfere with approaches to the airport runways and the Project employs safety measures or mitigation measures to protect the runways and prevent risks posed by hazardous wildlife. Neither SCAS nor FAA has objected to the proposed water features, and in fact the SCAS has provided written support. (See Final EIR, pages 4-238 to 4-239.)

Wildlife, specifically birds, have flown in and around the proposed Project area for decades, including between the Sacramento River and the Project site; there are no new threats to aircraft safety related to hazardous wildlife in the area that are associated with the proposed Project.

Section 4: The Project's proposal to develop a light rail station within the Overflight Zone is consistent with the purposes of the Airport Land Use Commission Law. A direct connection exists between the juxtaposition of appropriate land uses and successful public transit service such as that identified for the planned Downtown-Natomas-Airport (DNA) line. Sacramento Regional Transit advises that 50 percent of the project justification rating for all federal transit funding for rail projects is based on land use criteria. Land use decisions made in the Sacramento region, particularly along the planned high capacity transit corridors and specifically within ¼ mile of planned rail and/or bus rapid transit stations, are not only critical to maximize ridership, but have also become critical to the Federal Transit Administration's ultimate decisions about these projects.

The Project proposes to develop high-density residential units within a ¼-mile radius of a future Greenbriar transit station. This high-density housing near a proposed transit station is critical in RT's quest, which the City supports, to receive funding from the FTA major capital investment programs, which funds all of the regional rail expansion programs.

The planned DNA line connects the Downtown and Natomas areas to the Sacramento International Airport. For a light rail line to serve effectively the airport, the rail line and at least one transit station will need to be located

near the airport, meaning that at least some of the transit station facilities will likely need to be constructed within the Overflight Zone.

Section 5: The determination of the Airport Land Use Commission is overruled insofar as it restricts the City's discretionary authority for approval of the Project. In overruling ALUC's decision, the City Council specifically finds that this action is in the public interest of the citizens of the City of Sacramento, and that this action promotes the protection of the public health, safety and welfare by ensuring the adoption of land use measures that minimize the public's exposure to excessive safety hazards within areas around public airports to the extent that such areas are not already devoted to incompatible uses.

EXHIBIT B - ALUC LETTER OF CONSISTENCY DETERMINATION

Sacramento Area Council of Governments

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SACOG

December 7, 2005

Ms. Arwen Wacht
City of Sacramento Planning Department
915 I Street, 3rd Floor
Sacramento, CA 95814

Ms. Wacht:

On behalf of the Airport Land Use Commission (ALUC), I am submitting this letter, which serves as the ALUC's staff review of the Greenbriar Farms development application (City of Sacramento file P04-069; ALUC file 05-20). This letter is divided into four parts. (1) legal authority of the ALUC to review the Greenbriar Farms Development; (2) a summary of the proposed development application, (3) the ALUC's review; and (4) conclusions and next steps of the review.

Auburn
Citrus Heights
Colfax
Davis
El Dorado County
Elk Grove
Folsom
Galt
Isleton
Lincoln
Live Oak
Loomis
Marysville
Placer County
Placerville
Rancho Cordova
Rocklin
Roseville
Sacramento
Sacramento County
Sutter County
West Sacramento
Wheatland
Winters
Woodland
Yolo County
Yuba City
Yuba County

I. ALUC Review Authority

The Sacramento Area Council of Governments (SACOG) serves as the Airport Land Use Commission for the counties of Sacramento, Sutter, Yolo and Yuba as described in the provisions of the California Public Utilities Code. Chapter 4, Article 3.5, Section 21670. In essence, ALUCs throughout the state are required to enforce the land use compatibility with publicly owned and operated airports. To do this, cities and counties within an ALUC's jurisdiction send development applications to the ALUC for review. The ALUC reviews the proposal based on adopted Comprehensive Land Use Plan (CLUP) for any airport affected by the development.

The ALUC reviews development applications for compatibility between proposed development and publicly used, owned or operated airports. Because of its location relative to Sacramento International Airport, the Greenbriar Farms application is subject to ALUC review based on the Sacramento International Airport Comprehensive Land Use Plan. The CLUP has three policy areas that each development application must pass. (1) height; (2) noise; and (3) safety. For the height policy, proposed uses are evaluated based on the relationship of the height of proposed structures relative to their location to the airport. For noise, a determination is made whether the proposed land use is compatible with the noise impacts of the flight operations. For safety, the proposed land uses must restrict high concentrations of people in potential flight safety hazard areas. The CLUP describes a methodology and/or list of land uses that are allowed within each policy area.

II. Proposed Greenbriar Farms Development

The Greenbriar project is located north of I-5, west of Highway 99, and east of Metro Air Park, as shown in Attachment #1. The overall size of the property is 577 acres. As will be explained later, the ALUC only has review authority on the land within the Overflight Zone, which is 405 acres. The proposal requests entitlements within the Overflight Zone for uses that include residential (various densities), commercial, mixed use, park and open space with water bodies, and a light-rail transit station. Specifically, the land uses proposed within this safety policy area are:

- 1932 units of single family residential
- 583 units of multi-family residential, of which 283 units are duplex, tri-plex or four-plex
- 102,300 square feet of commercial in larger commercial area (approximately 50,000 square feet for a grocery market, 22,300 square feet for a restaurant, and 30,000 square feet for retail shops)
- 54,000 square feet of commercial/office in smaller commercial area (14,000 square feet for a restaurant, 25,000 square feet for retail, and 15,000 square feet for office)
- 23 acres of park
- 40 acres of water bodies
- a light rail station that will serve the future Downtown-Natomas-Airport line
- 10 acres (approximately) for one public elementary school (located outside of Overflight Zone).

III. ALUC Review

Only one of the CLUP's three policy areas (height, noise and safety) may be applied to the review of the Greenbriar application: safety. Height is not applicable because there are no proposed structures that are close to penetrating any of the imaginary surfaces as set forth by the Federal Aviation Administration in Federal Aviation Regulation Part 77. Nor is this application subject to the CLUP's noise policies because the project site lies outside of the 60 Community Noise Equivalent Level (CNEL), which serves as the demarcation line for restricted development.

However, about 70% of the property (the western 405 acres of the 577 total acres), lies inside of the Overflight Zone of the CLUP, and therefore that portion of the property is subject to the CLUP's safety policies. The eastern quarter of the property is outside of the Overflight Zone boundary and, therefore, the ALUC has no standing in the review of that portion's application. This letter only applies to the land inside the Overflight Zone. Attachment #1 shows where that boundary lies. SACOG has verified that the boundary of the electronic files that the applicant used is accurate enough for review purposes.

Here is the review for each of the proposed land uses:

> Residential Uses: The CLUP allows residential development (single family or multi-family) in the Overflight Zone with one condition: "uses compatible only if they do not result in a large concentration of people, which is defined as an

average density of greater than 25 persons per acre per hour during any 24 hour period, and not to exceed 50 persons per acre at any time for all land use types." The calculations and findings for total persons allowed per hour and maximum at any time are addressed in more detail in a separate section below.

Commercial/Office Uses: The CLUP allows for office and most retail uses subject to the same density conditions stated above. Allowed uses with this condition include restaurants, grocery and drug stores, apparel and miscellaneous retail, and gas stations. The applicant has not stated the exact retail uses of the proposed retail or office areas, but they would all be subject to the same maximum density calculation.

However, the CLUP outright prohibits "regional shopping centers." SACOG defines a regional shopping center as a retail area that draws residents from throughout the six-county region to shop because these products and retailers are not available at more localized scales. Most regional shopping centers contain at least 500,000 square feet. ALUC staff has determined that the footprint sizes of the both commercial areas are too small to warrant them as "regional shopping centers."

Parks and Open Space: The CLUP allows for neighborhood parks and open space and natural areas if they do not exceed the maximum densities stated earlier and do not include "high intensity uses or facilities, such as structured playgrounds, ballfields or picnic pavilions". The applicant does not specifically state whether the proposed parks will include these facilities, but they are not allowed.

Community and regional-wide parks are outright prohibited in the CLUP in the Overflight Area. The city of Sacramento's park standards define community parks as 10 to 60 acres in size, and regional parks are significantly larger. Neighborhood parks are defined from 5 to 10 acres. The applicant proposes a series of parks all smaller than 10 acres in size, thus all would be considered neighborhood parks and, therefore, allowed with the condition stated above.

Water Body: The CLUP allows for natural water bodies if they meet three conditions: they do not exceed the maximum density threshold, they do not contain high intensity facilities, nor do they "result in the possibility that a water area may cause ground fog or result in a bird hazard." The CLUP does not mention "man-made" or constructed water bodies, as in the case of this proposal, so the ALUC will treat this element of the application the same as "natural" water body. The ALUC will defer its evaluation of the bird hazard and ground fog to affected public agencies that are also reviewing this application: the Sacramento County Airport System and the Federal Aviation Administration. If both of these entities do not object to any bird or fog hazards, the ALUC will accept the proposed water bodies.

Light-Rail Station: The proposal calls for the light rail station within the Overflight Zone. The CLUP prohibits passenger terminals and stations within the Overflight Zone.

Public Elementary School: The elementary school proposed within the development is outside of the Overflight Zone, therefore it is not subject to the ALUC's review. However, because its proposed location is within 2 miles of an airport runway, state law (California Education Code 17215) requires the California Department of Transportation Division of Aeronautics to review and approve the school's location. The applicant has been given the appropriate contact information to follow-up to seek review by Caltrans; the ALUC will not track the approval process of this public facility.

Calculation and Findings of Average and Maximum Densities

As stated above, the CLUP's safety policy allows for commercial, office and residential uses in the Overflight Zone if, collectively between these uses, they do not result in a large concentration of people, which is defined as (criterion #1) an average density of greater than 25 persons per acre per hour during any 24 hour period, and (criterion #2) not to exceed 50 persons per acre at any time for all land use types.

The CLUP does not prescribe the methodology for determining whether a maximum density has been exceeded or not. However, the applicant has worked extensively with ALUC staff to establish such a methodology. In essence, the evaluation method agreed upon by both parties includes:

- for residential uses, number of residential units multiplied by the city of Sacramento's residents per household. For single-family detached residential development, 2.86 person per unit are used. For multi-family residential, 1.9 persons per unit are used, and for duplex, tri- and four-plexes, 2.26 persons per unit. These statistics are similar to those used in SACOG's Blueprint Project.

- for commercial and office uses, the Occupancy Loads of the California Building Code (2001, which is the current edition) determine the maximum persons per square foot, and therefore the maximum occupancies may be determined.

Attachment #2 provides a breakdown of the calculations used to determine estimated densities at any given time. The applicant and the ALUC collaborated on the development of this spreadsheet.

Criterion #1: The maximum "average" number of persons allowed within Overflight Zone during an "average hour" is:

- 25 persons per acre max. x 405 acres = 10,125 people

According to the calculations in Attachment A, the average amount is estimated to be about 8,000 people, which is an average density of about 20 persons per acre, and therefore this safety policy Criterion #1 is met.

Criterion #2: The maximum number of persons allowed within the Overflight Zone within any given time is:

- 50 persons per acre max. x 405 acres = 20,250 people

The calculations in Attachments A of approximately 11,300 people is far below the maximum threshold, and therefore safety policy Criterion #2 has been satisfactorily met.

Note: These findings for the maximum persons allowed were completed in the spirit in which the current CLUP for Sacramento International was written in 1994. This proposal meets both criteria using that document. Please note the current version of the California Airport Land Use Planning Handbook (2002) does not recommend concentrations of people within sub-areas of the greater development area. The Handbook provides the State of California's guidance to ALUC's throughout the state on standards. The Greenbriar proposal will have high concentrations of people above 25 person acre on an average hourly basis and above 50 persons per acre at times. The most notable place is surrounding the proposed light rail station (which is outright prohibited in the CLUP). In the spirit in which the current CLUP was written in 1994, the ALUC will consider this proposal compatible with the two density criteria.

IV. Summary of ALUC Review and Overrride Procedures

The summary finding of the ALUC's review are:

Finding #1: The residential and commercial uses are compatible with the CLUP based on the densities proposed.

Finding #2: Parks and open spaces are compatible with the CLUP as long as they do not contain facilities that lead to high concentrations of people, such as ballfields and playgrounds. If such facilities are desired, the applicant will need to obtain an override from the Sacramento City Council through the process described below.

Finding #3: The ALUC will defer to the Sacramento County Airport System and the Federal Aviation Administration regarding the water bodies proposed. If these two entities do not object to the proposed water features or the proposed wildlife and fog management techniques, the ALUC will consider this compatible with the CLUP. However, if either of these entities have objections, the ALUC will also have the same objections.

Finding #4: The proposed light rail station is NOT compatible with the CLUP. The applicant will need to seek an override from the Sacramento City Council as set forth in procedures described below for this.

Finding #5: Before a new public school is allowed within the 2 miles radius of Sacramento International Airport, the California Department of Transportation Aviation Division must provide approval. This is outside the jurisdiction of the ALUC.

Override Process

If the Sacramento City Council does not agree with ALUC Findings #2 or #4, the city may satisfy the consistency requirement by overriding either or both by a two-thirds vote. The overruling must, however, be made after a public hearing and must be based on specific findings that the proposed action is consistent with the purposes of the Airport Land Use Commission Law (California Public Utilities Code 21670).

If you have any questions about the contents of this letter, please let me know.

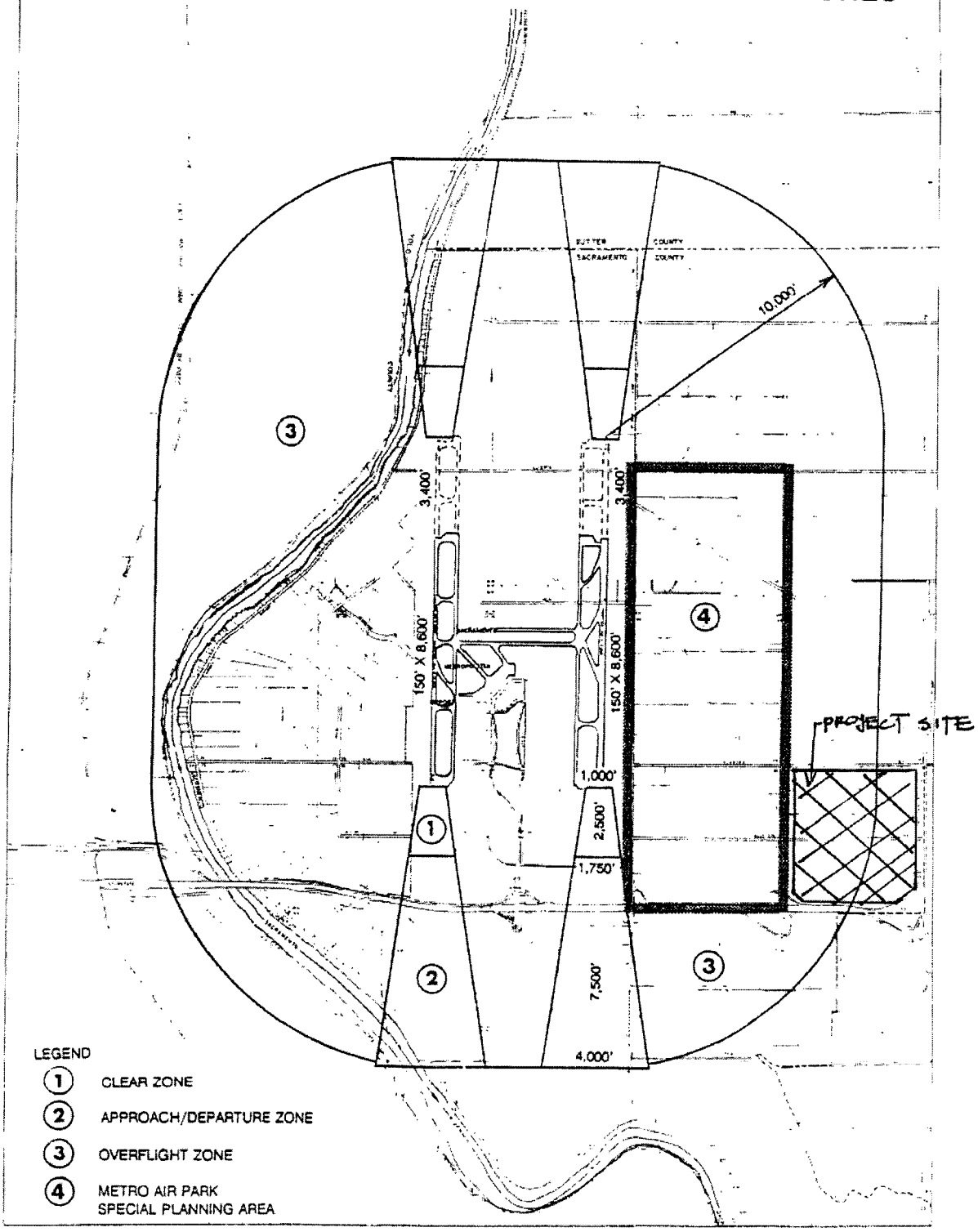
Sincerely,

Gregory Chew, AICP
Sacramento Area Council of Governments/Airport Land Use Commission
(916) 340-6227

attachments

FIGURE 9 ATTACHMENT #1

SACRAMENTO METROPOLITAN AIRPORT SAFETY ZONES



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Attachment 2: ALUC Maximum Density Calculations for Greenbriar Farms Proposal
(December 2, 2005)

Greenbriar Safety Zone Densities - Persons per Hour

							Explanation
25 Persons Per Acre Per Average Hour							
Gross acreage within safety zone			405				
Allowable persons per acre per "average hour"			25				per CLUP, page 36 and Appendix A-1
CLUP's Total allowable persons within safety zone ("on average")			**10125**				
RESIDENTIAL							
Assumptions:							
Persons per household - single family detached*			2.86				Source: City of Sacramento Planning Dept
Persons per household - two-four-plex*			2.26				Source: City of Sacramento Planning Dept
Persons per household - 5-plex+ (apartments)*			1.9				Source: City of Sacramento Planning Dept
Calculations:							
Single-family households - total # of persons			5526				1932 total detached units x 2.86
Duplex/tri or four plex - total # of persons			640				283 total duplex, tri or four-plex units x 2.26
Multi-family households - total # of persons			570				300 total multi-family units x 1.9
Total Maximum Persons Occupying Residential Units			**6096**				
Occupied an average of 75% of the day			**4572**				For purposes of "averaging" - assume people at home 18 hours per day, on average
COMMERCIAL							
Large Commercial Area:							
	Area	Use	%	Area	Factor	Occ Load	
Market	50,000	Store	90%	45,000	30	1,500	"Factor" is population factor - persons per square foot maximums as set
		Storage	10%	5,000	300	17	forth in Table 10-A of the 2001 California Building Code (2001 is
Restaurant	22,300	Dining	80%	17,840	15	1,189	current edition). Occupancy Load numbers are "maximum" persons per
		Kitchen	20%	4,460	200	22.3	square foot derived from CA Building Code.
Shops	30,000	Store	85%	25,500	30	850	Not shown on "Conceptual Plan," but included here to be conservative and provide flexibility later
		Storage	15%	4,500	300	15	
Total Max Occupancy Load						3,593	Only those commercial uses that fall within the safety line are analyzed in this section.
Meister Way Commercial:							
Restaurant	14,000	Dinning	80%	11,200	15	747	
		Kitchen	20%	2,800	200	14	
Shops	25,000	Store	85%	21,250	30	708	"Conceptual Plan" shows 14,700 sf; more analyzed here to be conservative and provide flexibility later
		Storage	15%	3,750	300	13	
Office	15,000	Office	100%	15,000	100	150	
Total Max Occupancy Load						1632	
Total Maximum Persons Occupying Commercial Units			5225				
Occupied for 16 hours per day			**3501**				For purposes of "averaging" - assume commercial units empty for 8 hours per day
PARKS**							Population totals attributable to parks have no noticeable impact on overall density evaluation, due to the siting of "Regional" parks outside of the safety line. See footnote below.
TOTAL PERSONS PER AVG HOUR WITHIN SAFETY ZONE			**8072**				Calculated figure is below maximum allowed; this proposal passes this criterion
TOTAL ALLOWABLE PERSONS WITHIN SAFETY ZONE			**10125**				
TOTAL PERSONS PER ACRE PER AVG HOUR WITHIN SAFETY ZONE			**20**				
TOTAL ALLOWABLE PERSONS PER ACRE PER AVG HOUR WITHIN SAFETY ZON			**25**				

50 Persons Per Acre Maximum Calculations

		Explanation
Gross acreage within safety zone	405	
Allowable persons	50	
Total maximum allowable persons within safety zone at any given time	20250	
RESIDENTIAL		
Total Maximum Persons Occupying Residential Units	6095	per analysis above
COMMERCIAL		
Total Maximum Persons Occupying Commercial Units	5225	per analysis above
TOTAL MAXIMUM PERSONS WITHIN SAFETY ZONE AT ANY GIVEN TIME	**11320**	Calculated figure is below maximum allowed; this proposal passes this criterion
TOTAL ALLOWABLE PERSONS WITHIN SAFETY ZONE	**20250**	