



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: See Below

DATE: October 3, 2024

COUNCIL DISTRICT: Citywide

SUBJECT: GPT24-001- City-Initiated General Plan Text Amendment to Update Text and Maps in the Envision San José 2040 General Plan and the Diridon Station Area Plan to Align With the Recently Adopted San José Mineta International Airport Land Use Compatibility Plan.

RECOMMENDATION

The Planning Commission voted 7-0-2 (Cantrell and Young absent) to recommend that the City Council:

- (a) Adopt a resolution by two-third majority making certain findings required by California Public Utilities Code Section 21676 that the proposed Amendment is consistent with the purposes set forth in California Public Utilities Code Section 21670 and partially overrule the Santa Clara County Airport Land Use Commission's adopted Airport Land Use Compatibility Plan for the San José Mineta International Airport; and
- (b) Adopt a resolution approving the General Plan Text Amendment to update text and maps in the Envision San José 2040 General Plan and the Diridon Station Area Plan to align with the recently adopted San José Mineta International Airport Land Use Compatibility Plan and incorporating the City-approved modified Airport Influence Area (AIA) overlay for San José Mineta International Airport adopted by Council overrule of the Airport Land Use Commission(ALUC)-adopted AIA for San José Mineta International Airport.

SUMMARY AND OUTCOME

If the City Council adopts the resolutions for a partial overrule of the Santa Clara County Airport Land Use Commission's adopted Airport Land Use Compatibility Plan for the San José Mineta International Airport and for a General Plan Text Amendment, only those General Plan Amendments, Specific Plan amendments (including Urban Village amendments), rezonings, and municipal code and building code updates located within

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the City-approved modified Airport Influence Area for San José Mineta International Airport would be referred to the Airport Land Use Commission for determinations of consistency with the San José Mineta International Airport Land Use Compatibility Plan.

BACKGROUND

On September 25, 2024, the Planning Commission held a public hearing to consider the proposed City-initiated General Plan text amendment. Commissioner Lardinois made a motion to approve the recommendation. Commissioner Oliverio seconded the motion. The motion passed 7-0-2 (Cantrell and Young absent).

ANALYSIS

For a complete analysis, please see the attached Planning Commission staff report.

EVALUATION AND FOLLOW-UP

If the proposed resolutions are approved by the City Council, the General Plan Text Amendment shall take effect immediately following the adoption of the resolution.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

PUBLIC OUTREACH

A public hearing notice, including the Planning Commission and City Council hearing dates, was published in the San Jose Post-Record. Staff posted the hearing notice, staff report, and draft resolution on the Department website. Staff has been available to discuss the proposal with interested members of the public.

This memorandum will be posted on the City's Council Agenda website for the October 22, 2024 City Council meeting.

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COMMISSION RECOMMENDATION AND INPUT

On September 25, 2024, the Planning Commission held a public hearing to consider the proposed General Plan Text Amendment.

Staff Presentation

Staff gave a short presentation on the history of the project and the proposed changes.

Public Hearing

No members of the public spoke on the proposed amendment.

Planning Commission Discussion

Commissioner Lardinois asked if there were any issues with the City overruling the Airport Land Use Compatibility Plan and if the City has authority to overrule. Staff responded that the City was only overruling the Airport Influence Area of the ALUCP and that California Public Utility Code allowed the City to overrule the ALUC with a two-thirds majority vote.

Commissioner Oliverio asked if properties in the difference area between the ALUC-adopted Airport Influence area and the proposed modified Airport Influence Area would affect the kind of development on those properties, like height restrictions. Staff responded that the Airport Influence Area is just the boundary for which projects are referred to the ALUC for a determination of consistency with the ALUCP for San José Mineta International Airport, but there may be a need for aviation easements limiting heights. Staff also clarified that the FAA height restrictions in those areas exceeded the height limits of any zoning district so it would not affect the height of developments.

Commissioner Bickford asked if ALUC/County staff expressed why they wanted a larger Airport Influence Area. Staff responded that a larger Airport Influence area would require more projects to be referred to ALUC and hence grant them consistency authority over more projects.

Commissioner Lardinois made a motion to approve staff recommendation and Commissioner Oliverio seconded the motion. The motion passed 7-0-2 (Cantrell and Young absent) to recommend the City Council approve the overrule resolution and approve the General Plan Text Amendment.

CEQA

Not a Project, Public Project File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

CHRIS BURTON

Secretary, Planning Commission

For questions, please contact Ruth Cueto, Principal Planner, Planning, Building and Code Enforcement Department at ruth.cueto@sanjoseca.gov or (408) 535-7886

ATTACHMENT

Planning Commission Staff Report from September 25, 2024.



Memorandum

TO: PLANNING COMMISSION
SUBJECT: GPT24-001

FROM: Christopher Burton
DATE: September 25, 2024

COUNCIL DISTRICT: Citywide

Type of Permit	City-initiated General Plan Text Amendment to update text and maps in the Envision San José 2040 General Plan and the Diridon Station Area Plan to align with the recently adopted San José Mineta International Airport Land Use Compatibility Plan and incorporating a modified Airport Influence Area (AIA) overlay for San José Mineta International Airport adopted by Council overrule of the Airport Land Use Commission-adopted AIA for San José International Airport.
Project Planner	Laura Maurer
CEQA Clearance	General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council to:

1. Adopt a resolution by two-third majority making certain findings required by California Public Utilities Code Section 21676 that the proposed Amendment is consistent with the purposes set forth in California Public Utilities Code Section 21670 and partially overrule the Santa Clara County Airport Land Use Commission's adopted Airport Land Use Compatibility Plan for the San José Mineta International Airport (Exhibit A); and
2. Adopt a resolution approving the General Plan Text Amendment to update text and maps in the Envision San José 2040 General Plan and the Diridon Station Area Plan to align with the recently adopted San José Mineta International Airport Land Use Compatibility Plan and incorporating the City-approved modified Airport Influence Area (AIA) overlay for San José Mineta International Airport adopted by Council overrule of the Airport Land Use Commission(ALUC)-adopted AIA for San José Mineta International Airport (Exhibit B).

PROJECT BACKGROUND

The San José Mineta International Airport is owned by the City of San José. The City maintains an Airport Master Plan for the airport which guides the long-term physical development of the airport to accommodate projected aviation demand. This Plan was adopted in 1997 and is periodically updated when there are significant changes to facilities, and/or to include more recent aircraft usage. The Airport Land Use Commission is an advisory commission that maintains the airport land use compatibility plan (ALUCP) for San José Mineta International Airport. This plan is intended to safeguard the general welfare of the inhabitants within the vicinity of an airport and to ensure that surrounding new land uses do not affect the Airport's continued operation. The ALUC also defines an Airport Influence Area (AIA) which is the planning boundary for the ALUCP and determines which projects are referred to the ALUC for a determination of consistency with the ALUCP. Projects requiring referral include General Plan Amendments, Specific Plans (including Urban Village Plans), Rezonings, and zoning and building code changes. The ALUCP and the AIA are based on information in the Airport Master Plan.

On April 21, 2020, City Council approved a major amendment to the [Airport Master Plan](#)¹ for San José Mineta International Airport (Airport Master Plan or AMP2020). This amendment extended the planning horizon from 2027 to 2037 and included FAA-approved updated aviation demand forecasts, facility modifications, and airfield reconfigurations. The amendment included new noise contours for the 2037 planning horizon, which is expressed using Community Noise Equivalent Level (CNEL).²

The major amendment to the Airport Master Plan, in turn, prompted the ALUC to make updates to the ALUCP and the Airport Influence Area (AIA). Under Public Utilities Code Section 21675, an ALUCP shall be "based on a long-range master plan or airport layout plan... that reflects the anticipated growth of the airport for the next 20 years." However, the ALUC cited short-term, pre-pandemic (2017-2019) aircraft operations growth to claim that the AMP 2037 demand forecasts were understated. While SJC experienced a short-term increase in aircraft operations growth, aircraft operations data cited by the ALUC is not representative of long-term aviation demand.

These short-term changes in aircraft operations were used as the rationale to assume a 50% increase to the AMP2020's aircraft operations, with no further analysis to justify why this growth factor was utilized. This in turn also inflated the 2037 CNEL noise contours by 50%, resulting in noise contours covering a significantly larger area than those in the AMP2020. The ALUC utilized these inflated noise contours as the basis for an expanded AIA. The ALUC's inflated noise contours resulted in the expansion of the AIA's southern boundary and the western boundary in Downtown San Jose.

The City of San José disagreed with the ALUC's reassessment, since it did not comply with PUC Section 21675.1, which requires that the AIA be based on the Airport Master Plan. The City also maintained that the ALUC's 50% inflated demand forecasts were overbroad and not based on

¹ For more information about the Airport Master Plan Environmental Impact Report, please visit [PP18-203 2020 SJC Airport Master Plan Amendment \(AMPA\) Integrated Final EIR \(sanjoseca.gov\)](#)

² A Community Noise Equivalent Level (CNEL) is a weighted average of sound levels measured in decibels over a 24-hour period, used to measure a community's cumulative noise exposure.

substantial evidence. The City submitted detailed letters to the ALUC, emphasizing the need to revise the noise contours and AIA based on accurate data. Details of City's comments can be found in the Exhibit C.

The California Department of Transportation Division of Aeronautics (Caltrans Aero) also weighed in, strongly encouraging the ALUC to use the accurate data from the 2020 Airport Master Plan, as is required by the statute. Caltrans Aero's advisory letter (Exhibit D), which aligns with the City's position, underscores that the Master Plan provides sufficient information for planning purposes and should be the basis for the ALUCP and the Airport Influence Area.

In June 2023, HNTB Corporation, a reputable aviation consulting firm, conducted a validation exercise confirming that the aviation activity forecast in the Airport Master Plan closely tracks actual activity data (Exhibit E). This validation report supports the use of the Airport Master Plan's data for airport land use compatibility planning.

On March 27, 2024, the Santa Clara County Airport Land Use Commission adopted the updated [ALUCP](#) including the expanded AIA (referred to as "ALUC-adopted AIA") based on the 50% inflated AMP2020 noise contours against the objections of the City of San José. Per State Code 65302.3 section (b), within 180 days of an update of an Airport Land Use Compatibility Plan, any local jurisdiction affected by the ALUCP is required to amend their General Plan and any specific plans with any necessary change required under PUC Section 21675. In addition, pursuant to PUC Section 21676, the City can overrule the ALUC's decision with a two-thirds majority vote by the City Council.

The proposed General Plan text amendment includes several minor text changes related to the update of the airport land use compatibility plan (ALUCP) and to update the Airport Influence Area (AIA) diagram for the San Jose Mineta International Airport (Airport) in the General Plan and the Diridon Station Area Plan (DSAP), to reflect a modified AIA for the Airport to be adopted by the City Council through the overrule process. The modified AIA is based on an AIA alternative prepared by the ALUC around the 65dB CNEL contour in the AMP2020. Drawing the AIA boundary around the 65dB CNEL boundary shown in the AMP2020 would be consistent with the City's adopted Airport Master Plan instead of the modified 65dB CNEL that was adopted by the ALUC that is not consistent with the Airport Master Plan. The modified AIA excludes the expanded AIA adopted by the ALUC on the southern and western boundary of downtown San José while maintaining the ALUC-Adopted AIA boundaries on the northern boundary in Santa Clara and western boundary west of the airport. See figure 1 for the boundaries of the prior AIA, the ALUC-adopted AIA, and the proposed modified AIA.

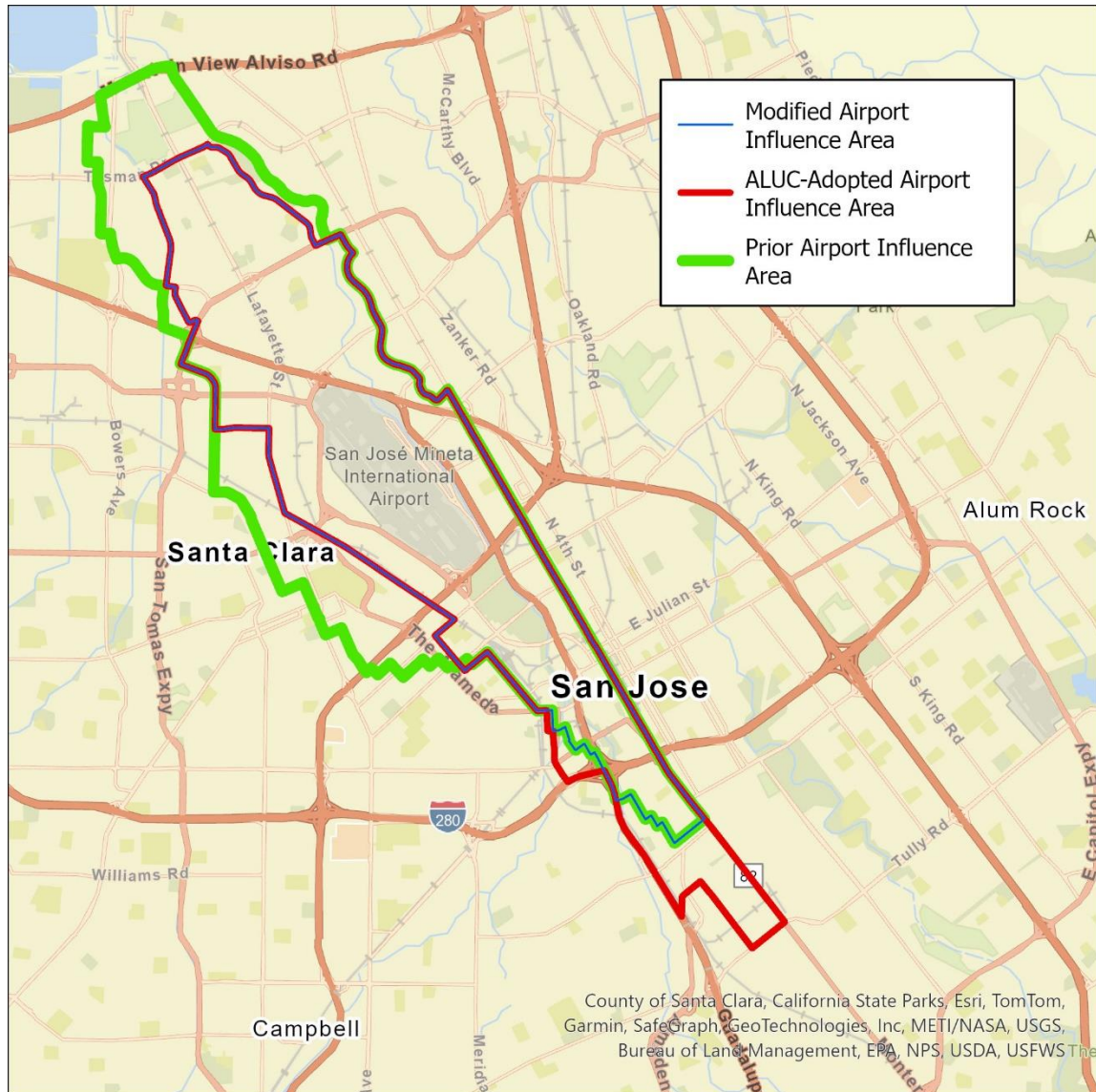


Figure 1 Map of Prior, ALUC-Adopted, and Modified Airport Influence Areas

ANALYSIS

General Plan Amendment

The Envision San Jose 2040 General Plan (General Plan) includes the Airport Influence Area as the Airport Influence Area overlay. This General Plan Text Amendment proposes to update the Airport Influence Area overlay in the Airport Influence Area map in the General Plan. In addition to the AIA overlay, there are also some stylistic, non-substantive changes to the map design. Also, the existing Airport Influence Area map for the Reid-Hillview Airport is included in this proposed General Plan Text Amendment with only stylistic, non-substantive changes to the map so as to be consistent with the new Airport Influence Area map for San José Mineta International Airport.

If City Council adopts the proposed modified Airport Influence Area, this will not change the Airport Influence Area adopted in the ALUCP, unless the ALUC takes further action to update

the ALUCP. The City-adopted modified AIA would only be utilized by the City of San José. Hence for additional clarity, the name used for the Airport Influence Area within the text of the Envision San José 2040 General Plan and Diridon Station Area Plan will also be updated to refer to the Airport Influence Area of the San José Mineta International Airport as “City-approved modified Airport Influence Area”.

This General Plan Text Amendment also includes the addition of a paragraph in the General Plan which explains the background, history and justification for the modified Airport Influence Area for San José Mineta International Airport. The additional language to be added is as follows:

The Airport Influence Area (AIA) is the airport land use planning area identified in the airport land use compatibility plan (ALUCP) which sets the boundaries for application of ALUC policies for San José Mineta International Airport and Reid-Hillview Airport. The latest San José Mineta International Airport ALUCP was adopted by the ALUC on March 27, 2024, and was subsequently adopted by the City Council with a modified AIA on October 22, 2024. As further described in resolution RES2024-xxx, the City overruled the AIA for San José Mineta International Airport adopted by the ALUC on March 27, 2024 because ALUC used inaccurate and artificially inflated aircraft operations data, which resulted in the ALUC adopting an expanded AIA that was inconsistent with both the City’s 2020 Airport Master Plan and the California Department of Transportation, Aeronautics Program’s (Caltrans Aero) guidance. The City-approved modified AIA reflects the more accurate data contained in the 2020 Airport Master Plan that was accepted by both the Federal Aviation Administration and Caltrans Aero.

This General Plan Text Amendment also includes minor text changes in the Envision San José 2040 General Plan and the DSAP Plan, for clarity and consistency as follows:

- There was a change in the naming convention for airport land use compatibility plans. In the past, these plans were referred to as airport “compatibility land use plans” (CLUPs). The current convention is to refer to these plans as airport land use compatibility plans (ALUCP). To avoid confusion between the plan names for the two airports within San José, the General Plan and Diridon Station Area Plan text will be updated to use the general term, “airport land use compatibility plans”, instead of the proper names of the plans. This would eliminate the need to update the plan names if they changed again in the future.
- The proper name for each airport in San José has been used inconsistently throughout both plans. To provide a more consistent naming convention, the text will be updated to use “San José Mineta International Airport” and “Reid-Hillview Airport” when referring to these airports.

For a detailed breakdown of these text changes, see Exhibit F.

Comparison of the ALUC-Adopted AIA and the City-Modified AIA

The Airport Influence Area (AIA) is predominantly defined by the Community Noise Equivalent Level (CNEL), which are calculated based on projections of aviation demand, changes in airport facilities, and variations in aircraft noise over a 20-year period. Typically, areas within the 65-decibel CNEL are included in the AIA. The AIA is crucial as it determines the boundaries within

which specific land use decisions must be referred to the Santa Clara County Airport Land Use Commission (ALUC) for review to ensure compatibility with airport operations.

Noise contours and aviation demands in AMP2020

The Master Plan's noise study for the Environmental Impact Report (EIR) indicated that the 2037 CNEL noise contours south of the airport decreased in size over the 2027 CNEL noise contours due to changes in the aircraft fleet mix and the introduction of newer, quieter aircraft.

ALUC-Adopted AIA

While PUC Section 21675 requires ALUCPs to be based on a long-range master plan that reflects the anticipated growth of the airport for the next 20 years, the ALUC applied an arbitrary 50% increase to the AMP2020 2037 forecasted aircraft operations and prepared new noise contours based on the inflated aircraft operations data.

As a result, the ALUC's 2037 CNEL contours encompass a larger area than the 2020 Airport Master Plan 2037 CNEL contours. The ALUC-adopted AIA expanded the southern and southwestern boundaries of the AIA from its current boundary at Floyd Street 1.2 miles south to Curtner Avenue. The ALUC's proposed AIA boundary adds an additional net 240 acres in San José.

This inflated AIA would lead to the imposition of development restrictions over a broad area that is not accurately reflective of the actual noise impact. Under the ALUC-adopted AIA, the properties in the difference area would face additional processing time and costs due to the increased number of parcels requiring referral to the ALUC. This would also lead to more City projects requiring ALUC review, without sufficient justification for broadening the ALUC's role. This arbitrary increase in referrals could extend timelines by months, hindering the City's efforts to address critical issues like the housing crisis. Any such change should be based on a thorough analysis and supported by clear evidence, which is lacking.

Figure 2 and Figure 3 show the *difference areas* and the General Plan land use designations of parcels in those areas. The southern difference area includes lands between Monterey Road (Highway) and Highway 87 and as far south as Curtner Avenue. The prominent land use designations are Residential Neighborhood, Mixed Use Neighborhood, Urban Residential, Heavy Industrial, Light Industrial, and Combined Industrial Commercial along with limited areas with Open Space, Parklands and Habitat, Transit Residential, and Neighborhood/Community Commercial.

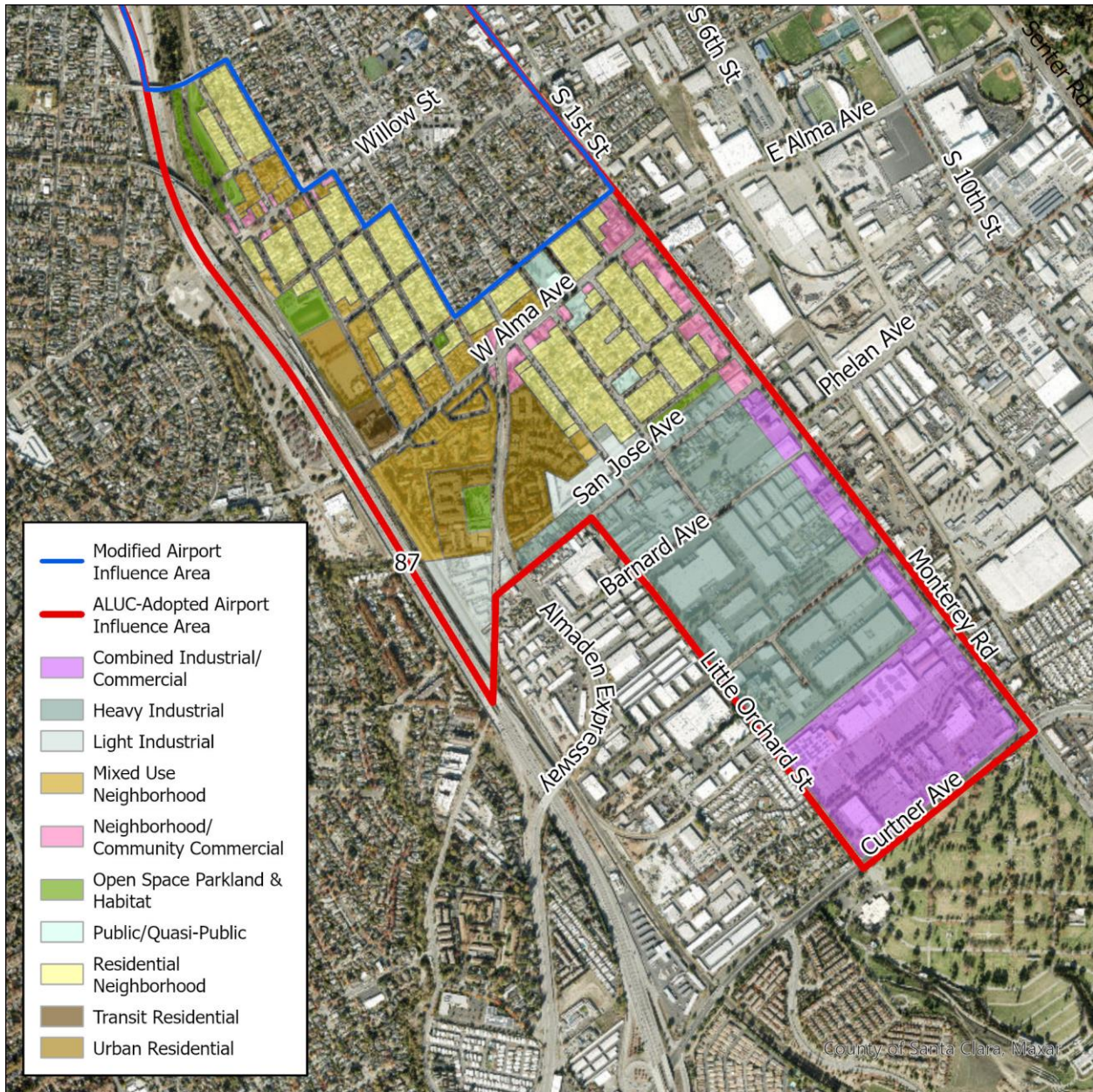


Figure 2 Map of southern difference area with land use designations

The western difference area includes lands west of 87, north of 1-280 and east of Barak Obama Boulevard. The prominent land use designations in this difference area are Downtown and Residential Neighborhood also with limited areas with Commercial Downtown,

Neighborhood/Community Commercial, Public/Quasi-Public, and Open Space, Parkland and Habitat.

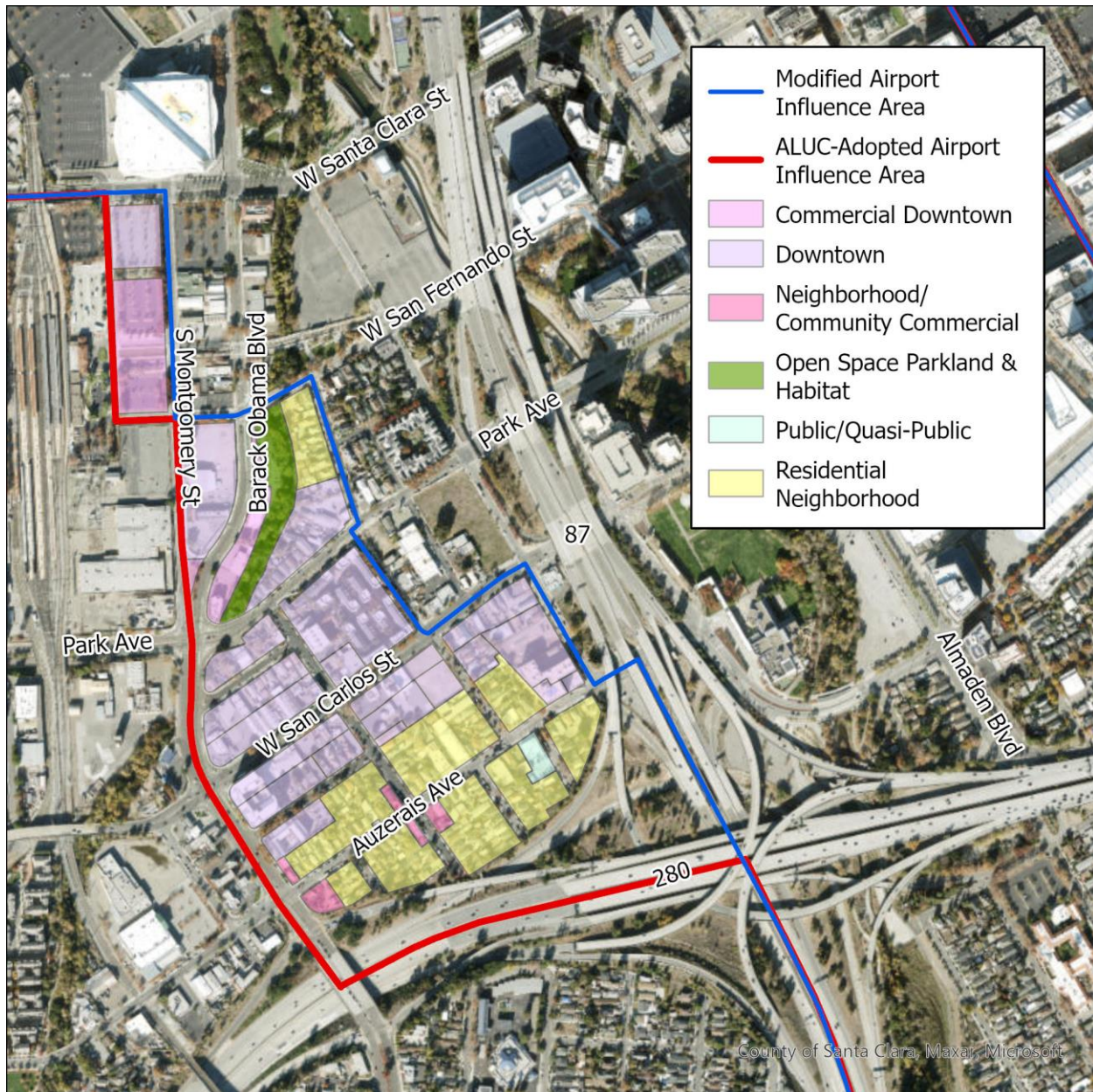


Figure 3 Map of western difference area with land use designations

City Modified AIA based on AMP2020

The staff-recommended modified AIA is based on the 2037 CNEL contours established in the 2020 Airport Master Plan. These noise contours provide a more precise representation of the future projected operational noise environment at SJC, ensuring that noise-related compatibility policies are appropriately applied to specific geographic areas. The modified AIA, based on an AIA alternative previously prepared by the ALUC, takes a balanced and realistic approach to planning, ensuring that land use decisions are based on comprehensive and reliable data. This approach helps to avoid unnecessary restrictions on land development in

areas not significantly impacted by noise, while supporting compatible land use development around the airport and protecting public health and safety.

If the City Council adopts the proposed modified AIA, it would create an additional AIA incorporated in the General Plan that would be utilized exclusively by the City of San José. Only projects that are within the City-approved modified AIA will be referred to the ALUC for consistency determinations. Projects solely in the difference area between the ALUC-adopted AIA and the City-approved modified AIA will not be referred to the ALUC for a consistency determination.

Partial Overrule of the ALUCP

The proposed amendment of the Envision San José 2040 General Plan to align with the San José Mineta International Airport (SJC) Airport Land Use Compatibility Plan (ALUCP) also involves an overrule of certain decisions made by the Airport Land Use Commission (ALUC) of Santa Clara County regarding noise contours and the Airport Influence Area (AIA). As described earlier, the data used by ALUC is erroneous, overbroad, and not based on substantial evidence. The City has identified flaws in the noise contours adopted by the ALUC, which do not reflect the most recent data from the AMP2020. Data and analysis in AMP2020 are also supported by a forecast validation report prepared by an aviation consultant and accepted by the Federal Aviation Administration (FAA).

Under the State Aeronautics Act, the City of San José, as both the local land use authority and the operator of SJC, has the power to overrule ALUC decisions by a two-thirds vote of the City Council, provided that specific findings are made consistent with the purposes outlined in PUC Section 21670. The proposed findings for an overrule are included in the attached draft Overrule Resolution.

ENVISION SAN JOSÉ 2040 GENERAL PLAN CONFORMANCE

The proposed General Plan Text Amendment changes are consistent with the following General Plan Policies:

Goal TR-14 – Safe Airport: Ensure that airport facilities in San José are safe by removing potential conflicts between land use and airport operations.

TR-14.1 Foster compatible land uses within the identified Airport Influence Area overlays for Mineta San José International and Reid-Hillview airports.

TR-14.2 Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.

TR-14.3 For development in the Airport Influence Area overlays, ensure that land uses and development are consistent with the height, safety and noise policies identified in the Santa Clara County Airport Land Use Commission (ALUC) comprehensive land use plans for Mineta San José International and Reid Hillview airports, or find, by a two-thirds vote of the governing body, that the proposed action is consistent with the purposes of Article 3.5 of Chapter 4 of the 6 State Aeronautics Act, Public Utilities Code Section 21670 et seq.

Analysis: The proposed General Plan Text Amendment and the adoption of a modified Airport Influence Area (AIA) will support above-mentioned policies by maintaining a regulatory framework for new development to comply with these policies. The modified AIA, based on the Airport Master Plan 2020, using contours that accurately depict the operational noise areas around the Airport will ensure that the noise-related compatibility policies developed by the Airport Land Use Commission (ALUC) apply to the appropriate geographic areas without imposing unnecessary restrictions on land use development in areas not affected by established noise levels, while still allowing for compatible land use development.

OTHER AGENCY COORDINATION

As required by Public Utilities Code 21676 (b), the proposed General Plan Text Amendment and partial overrule was referred to the Airport Land Use Commission for the ALUC to make a determination on the proposed changes consistency with the San José Mineta International Airport ALUCP. On August 28, 2024, the ALUC found the General Plan Text Amendment to be inconsistent with the San José Mineta International Airport ALUCP.

On September 6, 2024, the City notified the Airport Land Use Commission and the Caltrans Division of Aeronautics of the City's intention to partially overrule the ALUCP and the inconsistency determination by the ALUC with a two-thirds vote of the City Council. The letter also provided a draft of the Overrule Resolution making specific findings that the proposed action is consistent with the purposed set forth in Section 21670 of the California Public Utilities Code.

The ALUC may provide comments to the City about the proposed overrule within 30 days of receipt of the City's intention to overrule the ALUC's inconsistency determination. At the time of this memo, the ALUC has not yet responded but they have until October 6, 2024, to respond. If a response is received before the Planning Commission hearing, a supplemental memo to the Planning Commission will be prepared. If the response is received after the Planning Commission hearing and on or before October 6, a supplemental memo to City Council will be prepared.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was published in the San José Post Record and on the City's website. The staff report is also posted on the City's website and staff has been available to respond to questions from the public.

Project Manager: Laura Maurer

Approved by: /s/ Ruth Cueto, Principal Planner for Christopher Burton, Director of Planning, Building & Code Enforcement

Please click on the title of each exhibit to view the document:

ATTACHMENTS:	
Exhibit A:	Draft Overrule Resolution
Exhibit B:	Draft General Plan Text Amendment Resolution
Exhibit C:	Letters to ALUC from City Staff
Exhibit D:	Letter to ALUC from Caltrans Aero
Exhibit E:	HNTB Corporation Validation Report
Exhibit F:	Strikethrough/Underline of General Plan Text Amendment Changes
Exhibit G:	ALUC Consistency Determination Letter
Exhibit H:	Overrule Letters to ALUC and Caltrans Aero