Item No.

Meeting Date: March 1, 2012

Subject:

Presentation and Request for Policy Direction on ALUC Review Process and ALUCP Implementation — San Diego International Airport - Airport Land Use Compatibility Plan

Recommendation:

Receive the report and provide policy direction on the ALUC review process and implementation of the SDIA ALUCP.

Background/Justification:

A San Diego International Airport (SDIA) ALUCP Steering Committee meeting was held on January 19, 2012 to focus on the ALUC review process and ALUCP implementation requirements to be fulfilled by affected local agencies within the Airport Influence Area (AIA). The AIA defines the jurisdiction of the ALUC and is "the area or areas in which current or future airport related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses."

The draft policies presented to the Steering Committee (and later in this report) are intended to become the draft version of Chapter 2 of the SDIA ALUCP. The chapter addresses the following topics:

- ALUCP Adoption and Amendment
- Agencies and Actions Subject to this ALUCP
- Airport Land Use Commission (ALUC) consistency review process
- Local agency implementation of the ALUCP
- ALUC review process for proposed Airport plans

Current SDIA AIA

The current SDIA ALUCP, last amended in 2004, includes a relatively small AIA in comparison to the draft AIA because the current ALUCP was created prior to the Caltrans Handbook incorporating the four different compatibility factors. The current AIA is roughly based on the outer boundary of the 60 dB CNEL noise contour (adjusted to take into consideration parcel and/or street boundaries), as depicted on the top of **Exhibit 1.**

Proposed AIA

The proposed AIA is defined by the combination of the noise, safety, airspace and overflight factor boundaries, all of which have been previously reviewed by the ALUC and is shown on the bottom **of Exhibit 1**. A larger version of the proposed AIA is shown on **Exhibit 2**. For reference, the four compatibility maps that were previously reviewed can be seen on **Exhibits 3-6**.

Exhibit 1: Draft SDIA AIA Comparison

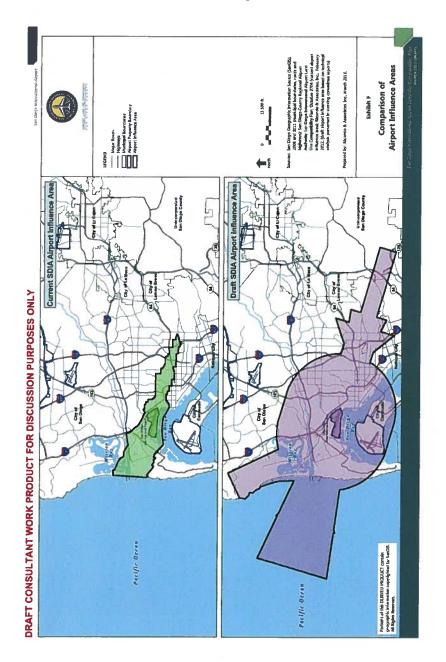


Exhibit 2: Draft SDIA AIA

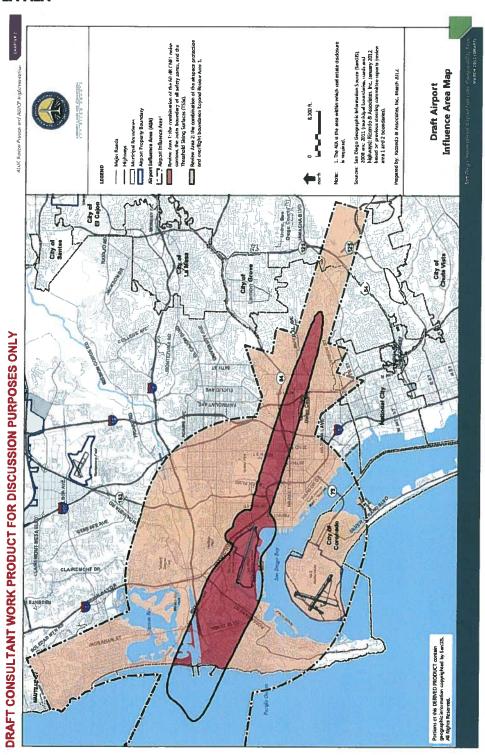


Exhibit 3: Draft Noise Map

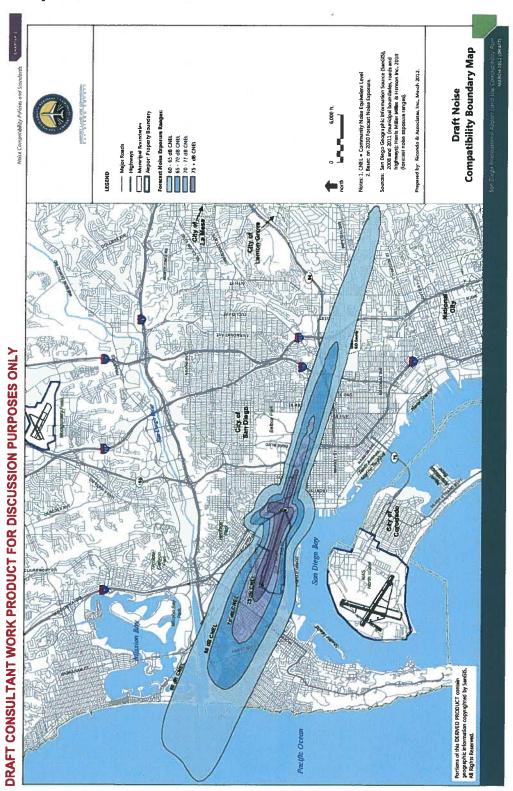


Exhibit 4: Draft Airspace Map

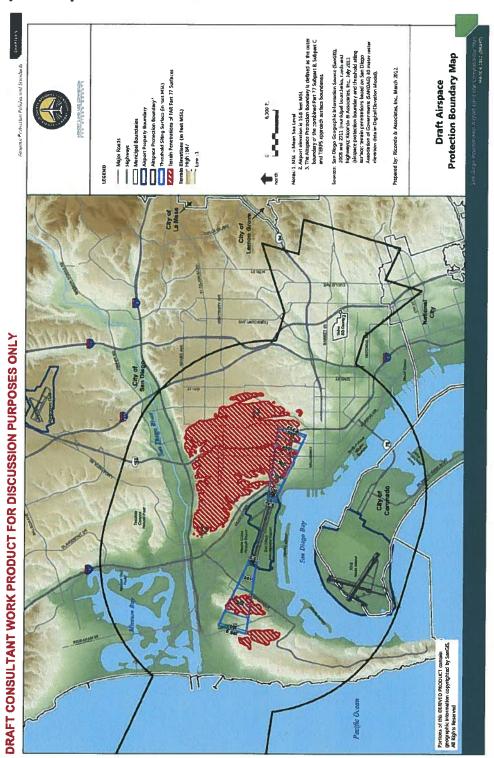


Exhibit 5: Draft Safety Map

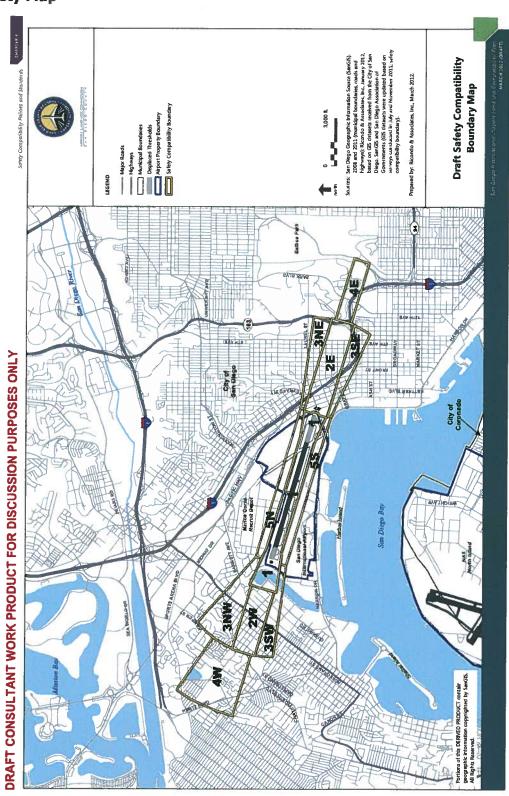
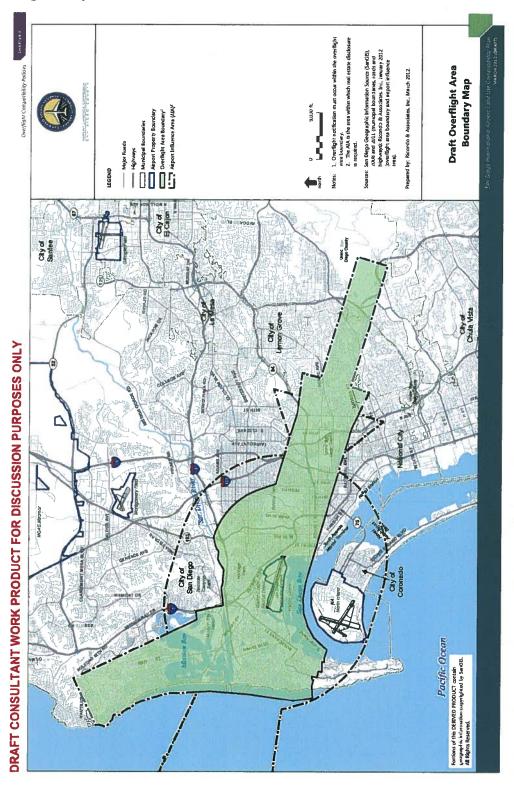


Exhibit 6: Draft Overflight Map



Proposed Policies

The following section outlines proposed policies to be incorporated into the ALUCP.

2.1 Purpose of Chapter

Chapter 2 describes how and where this Airport Land Use Compatibility Plan (ALUCP) is to be applied. It includes the following:

- Amendment procedures
- · Agencies and Actions Subject to this ALUCP
- Airport Land Use Commission (ALUC) consistency review process
- Local agency implementation of the ALUCP
- ALUC review process for proposed Airport plans

2.2 ALUCP Adoption and Amendment

2.2.1 Effective Date

This ALUCP becomes effective on the date of its adoption by the ALUC, superseding the previous ALUCP for the Airport adopted in 1992 and amended in 1994 and 2004.

If any portion of this ALUCP is invalidated by court action, other portions of this ALUCP remain unaffected and in full force.

2.2.2 Amendments to this ALUCP

Amendments to this ALUCP may be made once per calendar year, as provided by law. ALUCP amendments may address any issue deemed appropriate by the ALUC.

2.2.3 ALUCP and Airport Plan Updates

State law requires that the ALUCP be based on the most current airport master plan or airport layout plan (ALP) and associated operations forecasts. State law also requires that the ALUC review updates to airport master plans, airport layout plans, and proposals for airport expansion.

2.3 Airport Influence Area

The Airport Influence Area (AIA) defines where the ALUCP applies. The AIA is divided into Review Areas 1 and 2, as depicted in **Exhibit 2**. The differences in impacts within these two areas require different policies and review procedures.

- Review Area 1 is defined by the combination of the 60 dB CNEL noise contour, the outer boundary of all safety zones, and the Threshold Siting Surfaces (TSSs). All policies and standards apply within Review Area 1.
- Review Area 2 is defined by the combination of the airspace protection and overflight boundaries beyond Review Area 1. Only airspace protection and overflight policies and standards apply within Review Area 2.

2.4 Agencies and Actions Subject to the ALUCP

2.4.1 Local Agencies

The ALUCP applies to all local agencies within the AIA. In this ALUCP, the term "local agency" includes the cities of San Diego, Coronado, and National City; the County of San Diego; the Centre City Development Corporation; the Unified Port of San Diego; and all school, community college, and special districts within the AIA. The ALUCP does not apply to any property owned by the United States government or any Native American tribe.

2.4.2 Land Use Plans, Regulations and Projects

All policies in this ALUCP apply to land use plans, regulations and projects within the AIA.

Land use plans and regulations include any general plan, community plan, specific plan, precise plan, zoning ordinance, rezone, or building regulation, or any amendments to these policy and regulatory documents. Land use plans and regulations also include any school district, community college district, or special district master plans or amendments to master plans.

A land use project is a proposed development that requires a permit or approval from a local agency. It is also any proposed development or redevelopment project sponsored by a local agency. It includes projects requiring either ministerial or discretionary approvals.

2.4.2.1 Single-Family Residence Development Right

Construction of a single-family home, including a second dwelling unit, is allowed subject to the following consideration:

- The property is not located in Safety Zone 1
- The property must be a legal lot of record and designated by the general or community plans for residential use
- Each dwelling unit must be sound-attenuated, if required by the noise compatibility policies of this ALUCP
- An avigation easement or overflight agreement must be recorded, if required by the compatibility policies of this ALUCP
- Each dwelling unit must comply with the airspace protection policies of this ALUCP

2.4.3 Nonconforming Uses

A nonconforming use is an existing land use that is inconsistent with the noise or safety policies and standards of this ALUCP, for one of the following reasons:

- The use is incompatible
- The use does not comply with the policies and standards that would make it acceptable as a conditional use

The following policies and standards apply to nonconforming uses:

2.4.3.1 Repair, Maintenance, and Remodeling

Repair, maintenance and remodeling within the existing building footprint are allowed and are not subject to ALUC review.

2.4.3.2 Enlargement and Reconstruction

To prevent blight and maintain community character, enlargement and reconstruction of nonconforming uses are permitted (except in Safety Zone 1), subject to the following conditions:

1. Residential and Nonresidential Uses

- Additional sleeping rooms in residential, lodging, and institutional uses must be sound-attenuated if required by the noise compatibility standards
- Reconstructed buildings must be fully sound-attenuated if required by the noise compatibility standards
- An avigation easement or overflight agreement must be recorded if required by this ALUCP
- All uses must comply with the airspace protection policies of this ALUCP

2. Residential Uses Only

A nonconforming residential use may be expanded in building area or reconstructed if there is no increase in the number of dwelling units. A second dwelling unit is not counted toward this limitation.

3. Nonresidential Uses Only

A nonconforming nonresidential use may be expanded in building area or reconstructed if there is no increase in the intensity of the use. Nonconforming children's schools (grades K–12) may be expanded, replaced or reconstructed if required by State law, but no new assembly facilities (spaces with capacities of 50 or more people) are allowed.

4. Prohibition of Reconstruction in Safety Zone 1

In recognition of the high safety risks in Safety Zone 1, the reconstruction of nonconforming uses in Safety Zone 1 is prohibited, even if structures are destroyed by calamity.

2.4.3.3 Discontinuance of Nonconforming Use

A nonconforming use as defined in this ALUCP that has been discontinued for more than 24 months is no longer an existing use and must comply with all policies and standards of this ALUCP.

2.5 Existing Land Uses Are Not Subject to the ALUCP

Under state law, an ALUC has no authority over existing land use. The exception is for nonconforming uses that are expanded or intensified, as described in the Nonconforming Uses section.

Existing land uses include the following:

- A property with a vested development right as of the effective date of this ALUCP, as demonstrated in any of the following ways:
 - ✓ An approved and unexpired vesting tentative map (pursuant to California Government Code section 66498.1)
 - ✓ An executed and valid development agreement (pursuant to California Government Code section 65866)
 - ✓ Issuance of a valid building permit with substantial work performed and substantial liabilities incurred in good faith reliance on the permit

A land use that is in place as of the effective date of this ALUCP is not required to be brought into compliance with the ALUCP unless changes are made to that use.

2.6 ALUC Review Process Before Local Agency Implementation or Overrule of ALUCP

This section describes the process for ALUCP consistency determination before a local agency:

- Amends its land use plans and regulations, or
- Overrules all or part of the ALUCP

2.6.1 Land Use Plans, Regulations and Projects Requiring Review

2.6.1.1 Review Area 1

ALUC review is required for all land use plans, regulations and projects. ALUC staff may make a consistency determination for any land use plan, regulation or project that:

- Is compatible with ALUCP noise and safety compatibility policies, and
- 2. Does not require FAA review or is determined by the FAA not to be a hazard or obstruction to air navigation

2.6.1.2 Review Area 2

ALUC review is required only for land use plans, regulations and projects that:

- 1. Have received a notice of hazard or obstruction from the FAA, or
- 2. Create any of the following hazards:
 - a. Glare
 - b. Lighting
 - c. Electromagnetic interference
 - d. Dust, water vapor, and smoke
 - e. Thermal plumes
 - f. Bird attractants

2.6.2 Governing ALUCP

This section applies under the following circumstances:

- Land use projects reviewed under the previous ALUCP
- Land use projects that were not reviewed because they were not located in the AIA of the previous ALUCP
- Land use plans, regulations and projects that were in process as of the effective date of this ALUCP
- 2.6.2.1 Land Use Projects with Previous ALUC Consistency Determinations Land use projects determined to be consistent or conditionally consistent with the ALUCP in effect at the time of ALUC project review do not require further review under this ALUCP, unless any of the following changes are proposed:
 - 1. In Review Area 1:
 - a. An increase in the proposed residential density or nonresidential intensity
 - b. The addition of a land use that is incompatible under this ALUCP
 - c. The proposed or allowed height of a structure creates a hazard or obstruction as determined by the FAA
 - d. The addition of a characteristic that would create a hazard to aircraft in flight
 - 2. In Review Area 2:
 - a. An increase in the proposed height of a structure creating a hazard or obstruction as determined by the FAA
 - b. The addition of a characteristic that would create a hazard to aircraft in flight

If any of these changes are proposed, the land use project must be reviewed for consistency with this ALUCP.

- 2.6.2.2 Land Use Projects Located Outside the AIA of Previous ALUCP Land use projects located outside the AIA of the previous ALUCP that are in the review process or have been approved by the local agency must be reviewed under this ALUCP if any of the changes described in Section 2.6.2.1 are proposed.
- 2.6.2.3 Land Use Plans, Regulations and Projects in the Review Process as of the Effective Date of this ALUCP

Proposed land use plans, regulations or projects deemed complete per the Government Code by the local agency before the effective date of this ALUCP are subject to the previous ALUCP. If any of the changes described in Section 2.6.2.1 are proposed after the effective date of this ALUCP and before local agency approval, the land use plans, regulations or projects must be reviewed for consistency with this ALUCP, even if it was previously reviewed by the ALUC.

2.6.3 Consistency Determination Review Process

Local agencies must submit to the ALUC an application for consistency determination for proposed land use plans, regulations and projects as required by this ALUCP.

The applications must contain information described in Appendix E to this ALUCP. The procedures discussed in the following sections apply.

2.6.3.1 Review of Application for Completeness

ALUC staff must determine if the application is complete and notify the local agency of application completeness in writing within 30 calendar days after receipt of an application.

If the application is incomplete, ALUC staff will identify the information required to complete the application. If additional information is required, a new 30 calendar day review period begins after the information is received by ALUC staff.

If ALUC staff does not make a written determination of completeness within 30 calendar days after receipt of an application for consistency determination, the application is considered complete.

2.6.3.2 Consistency Review Timeframe

The ALUC must respond to a local agency's request for consistency determination within 60 calendar days after the application is deemed complete by ALUC staff.

The 60 calendar day review period may be extended if the local agency agrees in writing or so states at an ALUC meeting.

If the ALUC fails to act within 60 calendar days, the proposed land use plan, regulation or project is considered consistent with the ALUCP.

2.6.3.3 Consistency Determination Result

The ALUC must notify the local agency in writing of its consistency determination. A proposed land use plan, regulation or project is determined to be one of the following:

- 1. Consistent with the ALUCP. The local agency can proceed with its approval.
- Conditionally consistent with the ALUCP. Any specified conditions must correspond to the policies and standards of the ALUCP. Unless a condition specifies subsequent review by the ALUC, responsibility to ensure compliance with conditions rests with the local agency with permit or approval authority.
- 3. Inconsistent with the ALUCP. The ALUC must explain the specific conflicts with ALUCP policies and standards. The local agency may not approve the proposed land use plan, regulation or project, unless it overrules the ALUC's finding of inconsistency in accordance with applicable state law.

2.7 Local Agency Implementation of ALUCP

2.7.1 Local Agency Requirements and Responsibilities

Within 180 calendar days of the ALUC's adoption or amendment of this ALUCP, each local agency affected by the ALUCP must:

- Amend its land use plans and regulations to be consistent with the ALUCP, or
- Overrule the ALUCP by a two-thirds vote of its governing body after adopting findings that justify the overrule and providing notice, as required by law

If a local agency fails to take either action, it must continue to submit all land use projects to the ALUC for consistency determination.

2.7.2 Establishing Consistency of Local Agency Land Use Plans and Regulations

To establish consistency of land use plans and regulations with this ALUCP, local agencies must eliminate conflicts with the ALUCP. Conflicts may include:

- Land use plan or zoning designations that permit incompatible uses within noise contours or safety zones
- Permissible residential densities and nonresidential intensities that exceed the ALUCP density and intensity limits in any safety zone
- Permissible structure heights that would either constitute a hazard as determined by the FAA or penetrate the TSSs

2.7.2.1 Methods of Implementing this ALUCP

A local agency can make its land use plans and regulations consistent with this ALUCP in the following ways:

- 1. Incorporate ALUCP policies into General Plan Elements—Individual elements of local general plans may be amended to incorporate applicable policies from this ALUCP. For example, noise compatibility policies and standards could be added to the noise element, safety policies to the safety element, and other policies, standards and maps to the land use element.
- 2. Adopt ALUCP as Stand-Alone Document—Local agencies may adopt this ALUCP as a local policy document.
- 3. Adopt Airport Overlay Zone—Local agencies may incorporate the policies and standards of this ALUCP into an airport overlay zone to supplement the requirements of the standard land use zoning districts.

2.7.2.2 Ensuring Long-Term Compliance with this ALUCP

Local agency land use plans and regulations must include provisions for long-term compliance with this ALUCP. Local agencies must define the process they will follow when revising or amending land use plans and regulations, or when reviewing and approving land use projects within the AIA to ensure that they will be consistent with this ALUCP. Land use plans and regulations, including zoning, subdivision and building regulations, should include standards for reviewing land use projects for consistency with the ALUCP.

2.7.3 Land Use Plans and Regulations for Existing Land Uses

Land use designations in local agency land use plans that reflect existing land uses do not render the plans inconsistent with this ALUCP. However, local agencies must limit the expansion and reconstruction of existing land uses that are not consistent with this ALUCP in accordance with the nonconforming use policies and standards of this ALUCP.

2.8 ALUC Review After Local Agency Implementation or Overrule of ALUCP

2.8.1 Review of Local Agency Land Use Plans and Regulations

After local agency implementation or overrule of this ALUCP, land use projects are no longer required to be submitted to the ALUC. However, proposed land use plans and regulations always require ALUC review.

The following policies and standards apply:

- 1. In Review Area 1, all proposed land use plans and regulations must be submitted to the ALUC for review.
- 2. In Review Area 2, ALUC review is required if:
 - A land use project has received a determination from the FAA that it will constitute a hazard or obstruction to air navigation
 - A land use project with characteristics that may result to hazards to aircraft, as discussed in Chapter 5

2.8.2 Voluntary Review of Land Use Projects by ALUC

After implementation, local agencies may choose to submit land use projects to the ALUC for advisory review. Any ALUC recommendation would be non-binding.

2.9 ALUC Review of Proposed Airport Plans and Projects

The ALUC is required by state law to review proposed airport plans for consistency with this ALUCP. This requirement ensures that the ALUC is kept informed of changes in airport plans so that appropriate amendments to the ALUCP can be made.

2.9.1 Airport Plans and Projects

The following airport plans and projects require ALUC review:

- 1. Any airport master plan, amendments to an airport master plan, or airport layout plan that would modify previously adopted airport plans
- 2. Any proposal for airport expansion if it requires an amended Airport Permit from the State of California
- 3. Any proposal for construction of a new airport or heliport
- 4. Land use projects involving development of airport property for nonaviation uses

2.9.2 ALUC Actions on Airport Plans

The ALUC must determine if an airport master plan, ALP, or expansion plan is consistent or inconsistent with this ALUCP. When an inconsistency exists, the ALUC will amend this ALUCP to reflect the assumptions and proposals in the airport plans.

2.9.3 Consistency Determination Result

After the ALUC has made its consistency determination, the following actions must be taken depending on whether the plan or project is:

- 1. Consistent with this ALUCP. No further ALUC action is required, and the airport operator can proceed with the plan or project.
- Conditionally consistent with this ALUCP. This finding would only apply to land use projects involving development of airport property for nonaviation uses. Any specified conditions will be consistent with the policies and standards of this ALUCP.
- 3. Inconsistent airport plan. The ALUC must amend this ALUCP as necessary.
- 4. Inconsistent nonaviation land use project. The ALUC must identify the specific conflicts with ALUCP policies and standards.

2.9.4 Limit of ALUC Authority Over Airport

The ALUC has no authority over airport operations or aviation-related development on airport property.

Coordination Efforts/Range of Thinking

ALUC staff met with the potentially affected local agencies (CCDC, and the City of San Diego) on November 30, 2011 to discuss the SDIA AIA as well as the ALUC review process and ALUCP implementation policies and standards in preparation for the January 19, 2012 Steering Committee meeting. Additionally, ALUC staff met with the Port of San Diego on January 31, 2012 and the City of Coronado on February 1, 2012 to further discuss future implementation of the ALUCP.

The issues raised by attendees of these meetings were in regard to nonconforming uses (see Policy 2.4.3 on page 10 of this report).

Comment: Extend the timeframe from 24 months to 36 months.

Allowing abandoned nonconforming uses up to 3 years to reestablish would be more permissive than the City of San Diego's existing regulations, which currently sets the time limit at 24 months. Additionally, the other 13 adopted ALUCPs contain policy language regarding 24 months.

Comment: Defer to local agency nonconforming use regulations.

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ALUCP nonconforming use regulations relate to uses which do not conform to the ALUCP, which is different from local agency nonconforming use regulations, which do not conform to divergent local agency land use policies. Additionally, the City of San Diego allows resumption of an abandoned nonconforming use after the 24-month limit through the issuance of a special permit. The goal of this ALUCP is to not encourage uses which do not conform to the ALUCP, which is not the same as nonconformance to local agency regulations.

List of Attendees Who Signed In for the January 19, 2012 Meeting

SDIA ALUCP Steering Committee

PLEASE WRITE LEGIBLY

January 19, 2012								
Name	Affiliation	Email Address (If you want to be placed on distribution list)						
John G wotzka	Solf - Public	Johnwotzka @ smail.com						
PAUL 73 Webb	Pennsula Pranpide							
David Hulse	NAFAC							
George Condon	SDERAA Staff	g condon a san org						
LOHN ZIERARTH	AIA	1						
Neil Hyyturen	Ohenber							
Tait Calley	City & S. D.							
BRANDON NEONES	CCDC							
AGI. M'Collin	Sohan Turbines	on tile						

SDIA ALUCP Steering Committee

PLEASE WRITE LEGIBLY

January 19, 2012							
Name	Affiliation	Email Address (if you want to be placed on distribution list)					
Aun Mc Camel	Coronado	same.					
Amanda Lee	ShiDiego						
Rick Beach	CAASO	ontik					
MBKe Patton	CDQ	Mpartton@sandiego.gov					

Staff Recommendation

Staff recommends that the ALUC authorize staff to proceed with the proposed AIA map and policies as presented in this report for incorporation into the draft SDIA ALUCP.

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The draft SDIA ALUCP and associated environmental documentation are expected to be completed for ALUC consideration in early 2013.

Fiscal Impact:

The SDIA ALUCP update program is funded through the Airport Planning FY12 operating budget. Adequate funds for the subject of this staff report are budgeted in the Airport Planning Department's FY12 operating budget, within personnel costs and professional (i.e., consultant) services.

Authority Strategies:

This item supports one or more of the Authority Strategies, as follows:											
\boxtimes	Community Strategy		Customer Strategy		Employee Strategy		Financial Strategy		Operations Strategy		

Environmental Review:

- A. This ALUC presentation is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This ALUC presentation is not a "project" subject to CEQA, Cal. Pub. Res. Code §21065.
- B. This ALUC presentation is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

Prepared by:

KEITH WILSCHETZ DIRECTOR, AIRPORT PLANNING



Presentation and Request for Policy Direction on ALUC Review Process & ALUCP Implementation – San Diego International Airport – **Airport Land Use Compatibility Plan** March 1, 2012









ALUC Review/ ALUCP Implementation



- The presentation addresses the following topics:
 - AIA
 - Nonconforming Uses
 - Existing Uses

Draft Policies



Airport Influence Area

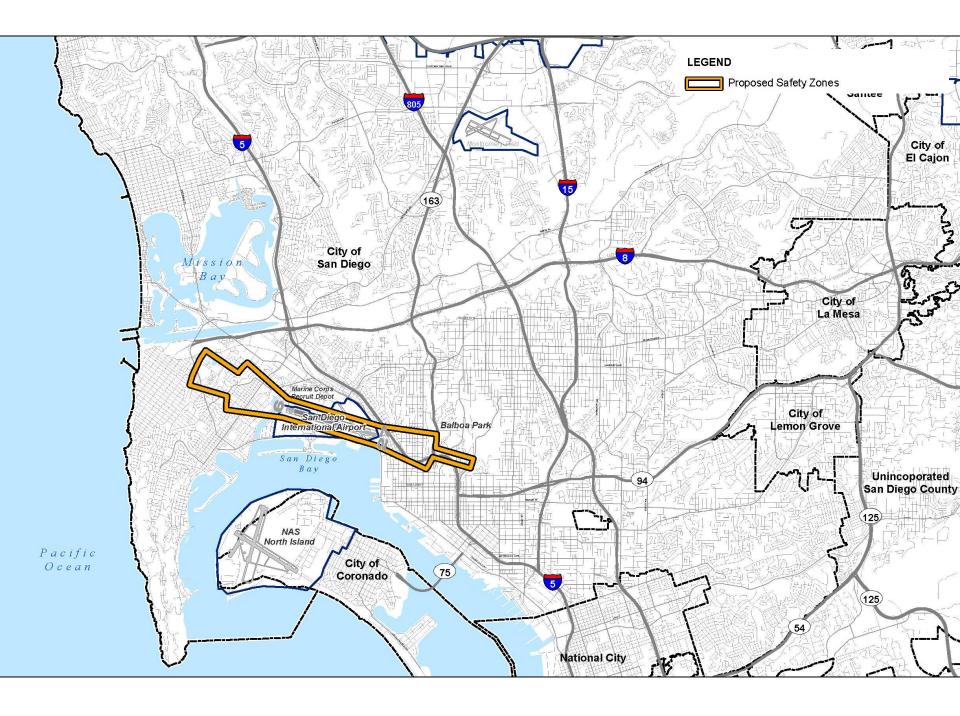
- Review Area 1
- Review Area 2

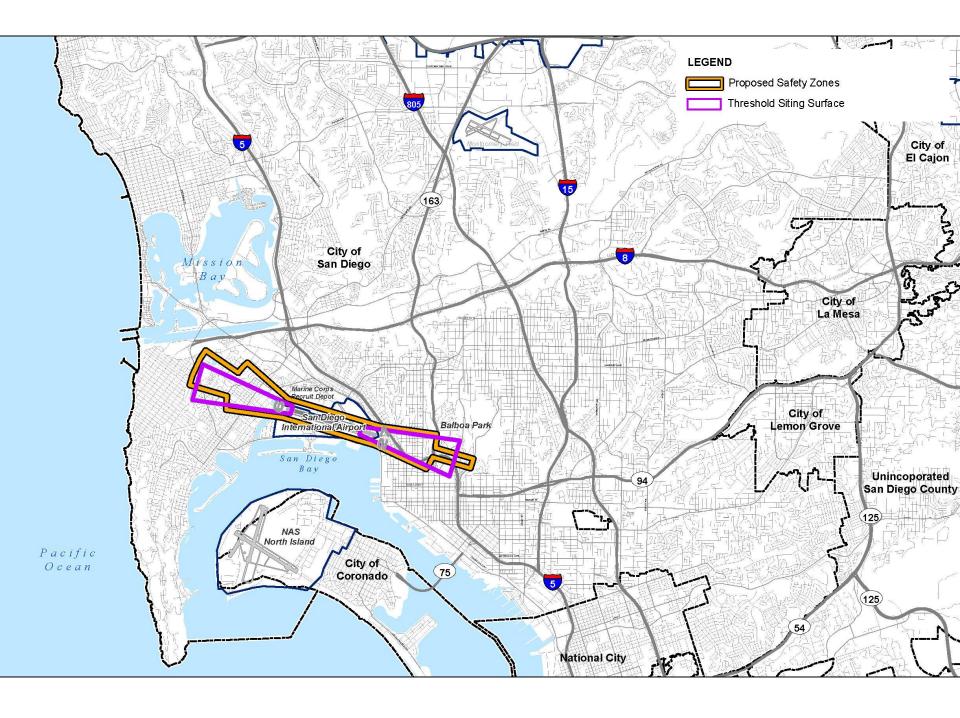
Current AIA vs Draft AIA

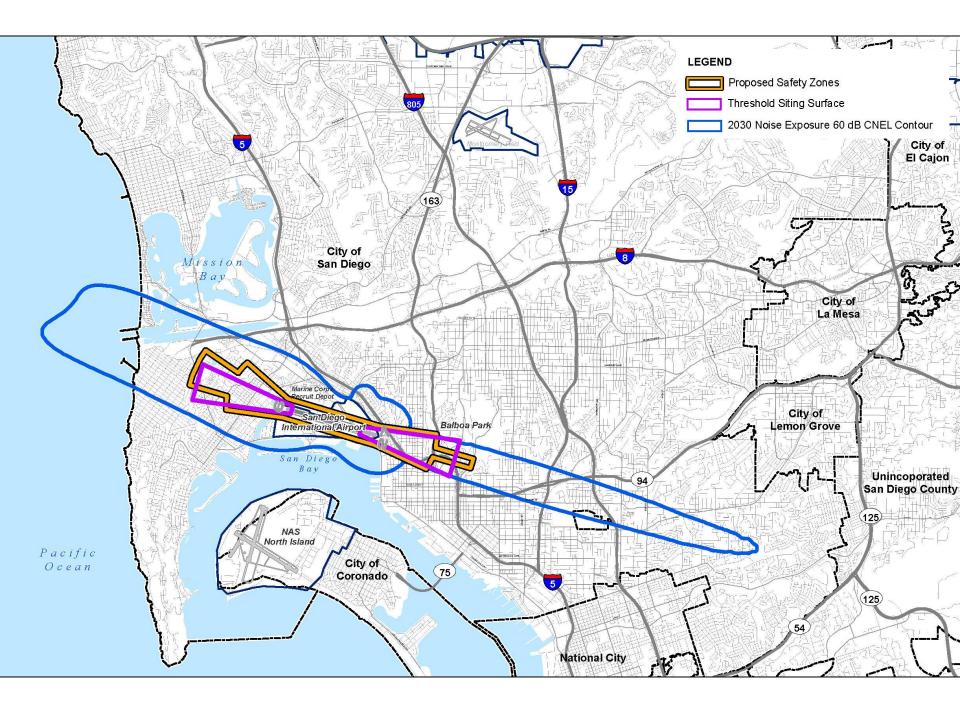


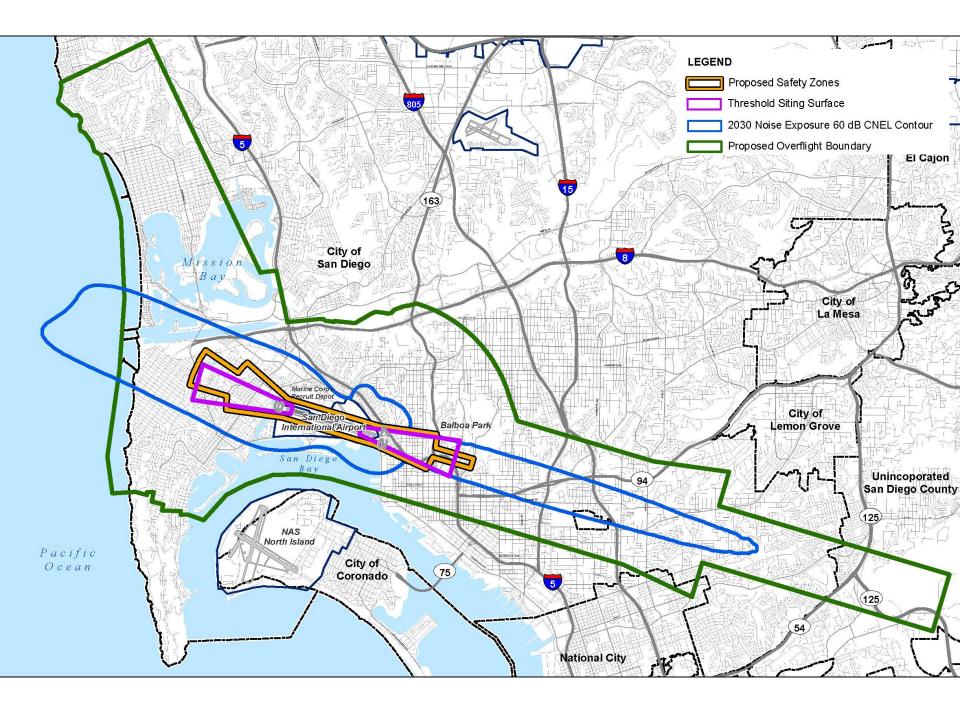


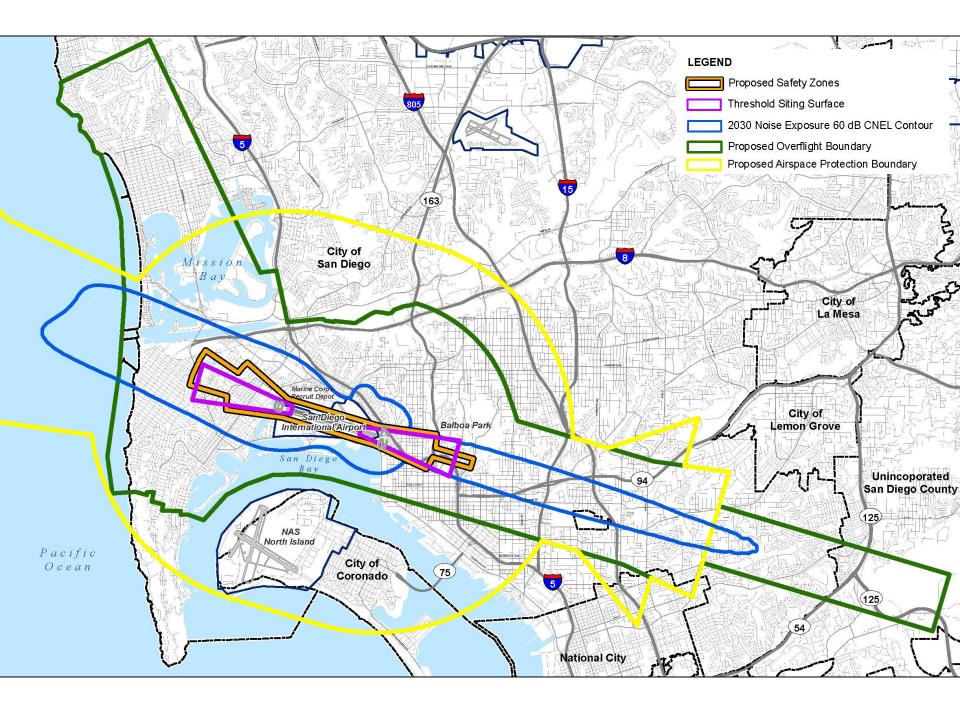


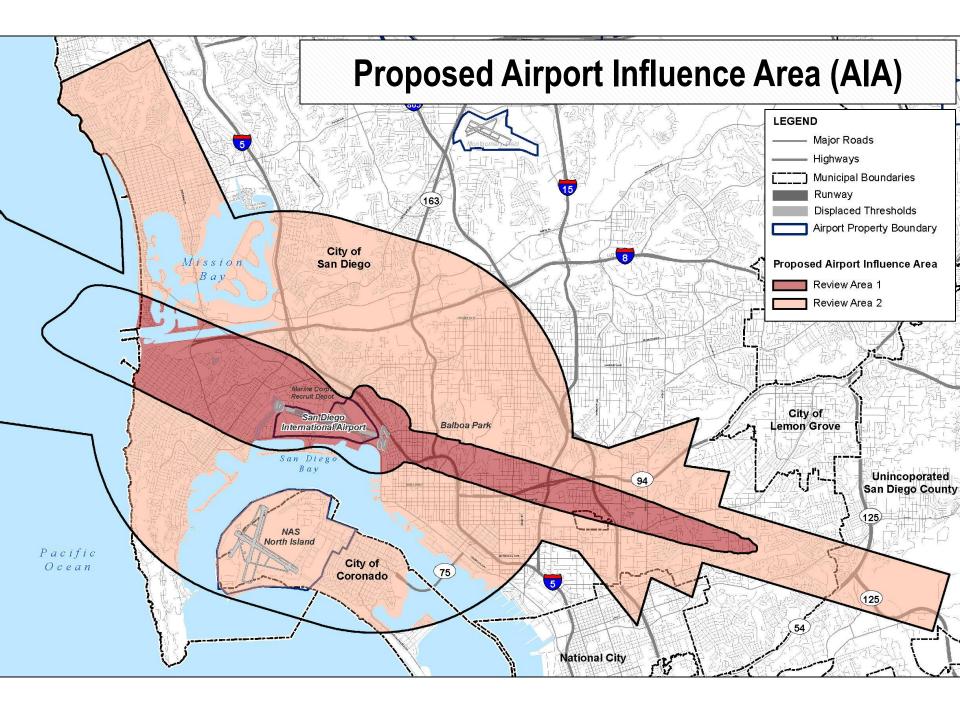












Draft Policies



Nonconforming Uses

- Existing land use that is inconsistent with the noise or safety policies and standards of this ALUCP
- The following policies and standards apply to nonconforming uses:
 - · Repair, Maintenance, and Remodeling
 - Enlargement and Reconstruction
 - Discontinuance of Nonconforming Use
- A nonconforming use <u>as defined in this ALUCP</u> that has been discontinued for more than 24 months is no longer an existing use and must comply with all policies and standards of this ALUCP.

Draft Policies



Existing Land Uses

- A land use that is in place as of the effective date of this ALUCP
- A property with a vested development right:
 - An approved and unexpired vesting tentative map
 - An executed and valid development agreement
 - Issuance of a valid building permit with substantial work performed and substantial liabilities incurred in good faith reliance on the permit

Staff Recommendation



 Staff recommends that the ALUC authorize staff to proceed with the proposed AIA map and policies as presented in this report for incorporation into the draft SDIA ALUCP.

Status Update



- March 1, 2012 Safety Factor, AIA and General Policies to ALUC
- Mid-March 2012 Draft ALUCP for Internal Review
- April 2012 Pre-Public Review for Draft ALUCP
- July 2012 Draft ALUCP to ALUC for Review
- Environmental

Status Update



- March 1, 2012 Safety Factor, AIA and General Policies to ALUC
- Mid-March 2012 Draft ALUCP for Internal Review
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