

EXHIBIT 3:

GOVERNMENTAL PURPOSE AND NEED FOR COMMISSION ACTION

EXECUTIVE SUMMARY

For the reasons described in this Staff memo and based upon the administrative record, a sound governmental purpose and need exists for the Commission to adopt the proposed Amendment.

The following bulleted points are discussed in greater detail below, in support of the conclusion that a sound governmental purpose and need exists for the Commission to adopt the proposed Amendment:

- 1.0 The governmental purpose and need for the Commission to adopt the proposed Amendment includes preserving the opportunity for military pilot training to achieve and maintain proficiency in low altitude tactical approaches and departures.
- 2.0 The role of the Solano County Airport Land Use Commission includes adopting the proposed Amendment.
 - a. The Commission is required to plan for the area around Travis AFB.
 - b. The Commission is required to take steps to safeguard the general welfare of the public.
 - c. The Commission is required to take steps to protect Travis AFB operations.
 - d. The Commission's authority to protect Travis AFB includes authority to protect against establishment of potentially-objecting neighbors.
 - e. The Commission's powers include the authority to develop height restrictions.
 - f. The Commission has the authority to amend the Travis AFB Land Use Compatibility Plan.
- 3.0 The Travis AFB Land Use Compatibility Plan is an appropriate place for the policies of the proposed Amendment to be first established, and the County then may choose whether to make the County General Plan consistent with those policies or instead to overrule those policies.

The foregoing bulleted points are explained in greater detail below.

DISCUSSION

1.0 GOVERNMENT PURPOSE AND NEED

The governmental purpose and need for the Commission to adopt the proposed Amendment includes preserving the opportunity for military pilot training to

achieve and maintain proficiency in low altitude tactical approaches and departures.

The governmental purpose and need for the Commission to adopt the proposed Amendment includes providing and preserving opportunities for pilots to train, and to achieve and maintain proficiency, in low altitude tactical approaches and departures.

The Air Force and Headquarters, Air Mobility Command has determined that there is a need for landing zones to be established in the western United States where C-17 tactical arrival, departure, and landing training can be accomplished by C-17 aircrews from Travis AFB.

An important element of C-17 basing is that aircrews have access to an airfield with a short runway, called a landing zone, 3,500 feet to 5,000 feet long and 90 feet wide, that is used to train and evaluate aircrews in conditions that closely approximate what they will experience in an operational environment.

The Air Force determined that there were no other landing zones within reasonable proximity to Travis AFB, underwent a lengthy and detailed selection process, and ultimately identified Travis AFB as the location at which the ALZ would be constructed. (*Environmental Assessment, Permanent Western United States C-17 Landing Zone* (Sept. 2008), pp. 1-1, 1-2.)

In March 2013, a new Permanent Western United States C-17 Landing Zone was dedicated at Travis AFB (the "Assault Landing Zone" or "ALZ").

The training routes that are flown from the ALZ at Travis AFB fly over land that, at present, has no structures exceeding 200 feet in height. As a result, aircraft using the ALZ can presently fly throughout the area at an altitude slightly higher than 500 feet above ground level, which is an altitude that as closely as possible approximates what aircraft will experience in an operational environment, under actual or potential enemy fire.

Low altitude tactical approaches are being flown today by Travis AFB crews who are deployed overseas. They are being employed in Afghanistan right now to keep aircrews safe and to avoid the constant threats posed by enemies on the ground. Tactics such as low altitude approaches allow Travis AFB crews to be somewhat unpredictable to the enemies on the ground who are attempting to shoot at them with things like small arms, light anti-aircraft artillery, and shoulder-launched surface-to-air missiles. Being unpredictable means being a tough target to hit. One of the main reasons that Travis AFB's big slow gray aircraft are not getting shot down in Afghanistan is that they train in these approaches which make it very difficult for the Taliban, Al Qaeda and other insurgents to be able to acquire them as a target and then get an accurate shot at them. If they always flew the same ground tracks at the same altitudes on the extended center line of the runway, the aircraft would become very

predictable and therefore an easy target. Travis AFB aircrews do not want to do that and do not want to make the enemy's job easy. So, being proficient in these procedures is quite critical for them. "It's not an overstatement to say these tactics save lives, but they are challenging skillsets that must be practiced often to remain proficient." (Gary Gottschall, Deputy Commander, 60th Operations Group, Presentation to the Solano County Board of Supervisors, October 8, 2013.)

For example, on January 8, 2004, Travis AFB pilot Captain Zachary B. Zeiner was piloting a C-5 aircraft out of Baghdad International Airport loaded with over 130,000 pounds of cargo and fifty-two combat troops from the 101st Airborne Division, when they came under a direct attack by hostile ground fire from a surface-to-air missile strike which destroyed one of their engines. The aircrew, led by Capt. Zeiner, successfully landed the aircraft without loss of life. For his actions, Capt. Zeiner received the Distinguished Flying Cross. Capt. Zeiner later said "This incident validates our training, preparedness and resolve when faced with adversity. We train for this exact scenario and while we all hope the day will never come when we will be called upon to perform while under this situation, it is comforting to know that we are all prepared to deal with the complexities of combat."¹

At present, Travis AFB aircrews can fly slightly higher than 500 feet above ground level when training by using the ALZ. Introduction of obstacles taller than 200 feet onto the land below the area of those flight routes, however, would force them to fly at higher altitudes that would less closely approximate what they will experience in an operational environment under enemy fire.

Any structures taller than 200 feet would become charted obstacles that pilots would need to fly above by a substantial margin. Manmade obstacles extending less than 200 feet above ground level are typically not shown on aeronautical charts. When a manmade obstacle is more than 200 feet above ground level, however, Travis AFB pilots must round the charted actual height of the obstacle up to the next higher 100-foot level in order to account for possible error. Then, under flight rules applicable to Travis AFB pilots, they have to clear that rounded higher elevation figure by an additional 500 feet. As a result, if a manmade structure were constructed at, for example, 450 feet in height: (1) that structure would exceed 200 feet and would therefore be charted; (2) Travis AFB pilots would round the 450 foot height up to the next higher 100-foot level, which would be 500 feet; (3) Travis AFB pilots would then have to fly over the top of altitude that by an additional 500-foot margin, which would put the minimum flight altitude at 1,000 feet or above, an outcome "that does not replicate" in the tactical

¹ Reported at: website of *Military Times* <<http://projects.militarytimes.com/citations-medals-awards/recipient.php?recipientid=43444>>; website of *Distinguished Flying Cross Society* <http://www.dfcsociety.net/?page_id=699>; website of *Air Force Print News Today* (Mar. 29, 2012) <<http://www.travis.af.mil/news/story.asp?id=123296004>>.

training environment the conditions that the Air Force is trying to train for, and that does not closely approximate what the pilots will experience in an operational environment.²

Therefore, introduction of structures with heights greater than 200 feet above ground level onto the land area that is flown over for ALZ training would hinder pilot opportunities train, and to gain and maintain proficiency in, low altitude approaches that closely approximate what the pilots will experience in an operational environment, and that are critical for protecting lives of aircrews and their passengers and for avoiding damage to aircraft and loss of cargo, and that are therefore important to the mission and operations of Travis AFB, to military readiness, and to the security of the United States, including the citizens of Solano County.

Providing and preserving opportunities for pilots to train, and to achieve and maintain proficiency, in low altitude tactical approaches and departures also helps to protect the economic contribution of Travis AFB to the region and state. The economic contribution of Travis AFB to the Solano County region has been estimated at over \$485 million. (2009 Travis Air Force Base Air Installation Compatible Use Zone (“AICUZ”) Study, at pp. 2-3 to 2-4.) In 2007, Travis Air Force Base (“Travis AFB”) employed about 14,000 workers, making it the largest single employer in Solano County and accounting for nearly 10 percent of the county’s total jobs. (Solano County General Plan, at pp. ED-4 to ED-5.) Preserving the operations of Travis AFB, including training operations using the ALZ, helps to protect that economic contribution.

By adopting the proposed Amendment, the Commission would be prohibiting the introduction into the ALZTA Overlay Zone of obstacles with heights greater than 200 feet above ground level, and would thereby be contributing to preserving the opportunity for pilots to train in conditions that closely approximate what they will experience in an operational environment, with all of the attendant security and economic benefits of conducting that training for the pilots, for Travis AFB, for California, and the United States.

2.0 COMMISSION’S ROLE

The role of the Solano County Airport Land Use Commission includes adopting the proposed Amendment.

² See, Federal Aviation Administration, *Aeronautical Chart User’s Guide* (12th Ed. Oct. 2013), at pp. 6-7; Gary Gottschall, Deputy Commander, 60th Operations Group, Presentation to the Solano County Board of Supervisors, October 8, 2013; Memorandum, Headquarters Air Force Flight Standards Agency, Waiver to AFI 11-202, Vo. 3 for Minimum Altitudes During Low Level Operations (July 22, 2013); Correspondence from J. Allen, Federal Aviation Administration to Lt. Col. W. Hart, Headquarters Air Force Flight Standards Agency (April 19, 2013).

The Commission's role includes adopting land use provisions such as the proposed Amendment.

Under the State Aeronautics Act (Pub. Util. Code, § 21001 et seq.), the Commission has an affirmative obligation to include provisions in its land use compatibility plan for the area surrounding Travis AFB that will protect Travis AFB from land uses incompatible with the base's mission and operations, including protecting military readiness activities and the training of military personnel.

The Legislature has charged airport land use commissions around the state with this duty toward military installations as part of a broad-based effort to protect the continued viability of military installations in California, which provide a key foundation for the nation's security and which are a key component of California's economy.

More specifically, the Legislature has charged airport land use commissions with the mission of developing "policies that reflect the contributions that military bases make to their communities, as well as their vital importance in the state's economy and in the defense of our nation." (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2008) 164 Cal. App. 4th 1, 12 ("*Muzzy Ranch II*").)

Under state law, the Commission has both the legal authority and an affirmative legal obligation to protect the operations of Travis AFB by imposing height restrictions where appropriate. (See, *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal. 4th 372, 378 ("*Muzzy Ranch I*") ("Solano County Airport Land Use Commission (Commission) was established, pursuant to the State Aeronautics Act (Pub. Util. Code, § 21001 et seq.), for the purposes of ensuring the orderly expansion of airports and promulgating appropriate land use measures in Solano County (*id.*, § 21670, subd. (a)(2)).")³)

a. The Commission is required to plan for the area around Travis AFB.

³ In addition to the power and duty to establish appropriate height restrictions within airport land use compatibility plans, the Commission also has other powers and duties. "The powers and duties of ALUC's are described in section 21674. Those powers and duties include: '(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses. [¶] (b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare. [¶] (c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675. [¶] (d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.' (§ 21674.)" (*Muzzy Ranch II, supra*, 164 Cal. App. 4th at pp. 6-7.)

The Commission is required by statute to adopt a land use compatibility plan for the area around Travis AFB. (Pub. Util. Code, § 21675, subd. (b) (“The commission shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a).”))

b. The Commission is required to take steps to safeguard the general welfare of the public.

The purpose of the Commission’s land use compatibility plans is to “provide for the orderly growth of the airports and the area surrounding the airports, and to safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general.” (Pub. Util. Code, § 21675, subd. (a).)

c. The Commission is required to take steps to protect Travis AFB operations.

Because Travis Air Force Base is a military airport, the purpose of the Commission’s land use compatibility plan for Travis AFB also includes protecting military operations and preventing constraints on the facility’s mission, objectives, and activities. (*Muzzy Ranch II, supra*, 164 Cal. App. 4th at pp. 9-12.)

d. The Commission’s authority to protect Travis AFB includes authority to protect against establishment of potentially-objecting neighbors.

Part of the Commission’s role is also to prevent, in the area around military air installations, the establishment of land uses that may involve persons who will voice future objections to military operations near them (e.g., noise complaints). (*Muzzy Ranch II, supra*, 164 Cal.App.4th at p. 10 (citing legislative intent) (“When counties and cities approve development near bases, residents often object to noisy or dangerous military operations and force their relocation.”))

e. The Commission’s powers include the authority to develop height restrictions.

“In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area.” (Pub. Util. Code, § 21675, subd. (a).)

f. The Commission has the authority to amend the Travis AFB Land Use Compatibility Plan.

“The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.” (Pub. Util. Code, § 21675, subd. (a).) The Travis AFB Land Use Compatibility Plan has not been amended previously in this calendar year.

3.0 LAND USE COMPATIBILITY PLAN’S ROLE

The Travis AFB Land Use Compatibility Plan is an appropriate place for the policies of the proposed Amendment to be first established, and the County then may choose whether to make the County General Plan consistent with those policies or instead to overrule those policies.

The current TAFB LUCP was adopted in 2002. In *Muzzy Ranch I*, the Supreme Court described the 2002 TAFB LUCP, referring to it as the “TALUP” saying that:

“The TALUP ‘sets forth land use compatibility policies applicable to future development in the vicinity’ of Travis Air Force Base. The policies are designed ‘to ensure that future land uses in the surrounding area will be compatible with the realistically foreseeable, ultimate potential aircraft activity at the base’ and are ‘intended to be reflected in the general plans and other policy instruments adopted by the entities having jurisdiction over land uses near’ the base. [¶] The TALUP also sets forth criteria for determining the compatibility with Travis Air Force Base’s activities and mission of possible future development in several geographic zones.”

(41 Cal.4th at pp. 378-79.)

The Supreme Court explained further:

“The TALUP, by its terms, ‘[d]efines the responsibilities of affected jurisdictions to modify their general plans and other policies for consistency with [Commission] policies and to submit certain land use development actions to the [Commission] for review.’ It provides that the County of Solano and its affected cities ‘shall utilize [the TALUP] as the basis for: (a) [m]odifying their respective general plans, zoning ordinances, and other local land use policies to assure that future land use development will be compatible with aircraft operations [and] (b) [m]aking planning decisions

regarding specific development proposals involving the lands impacted by aircraft activity.’

“Pursuant to the statutory scheme authorizing it, the TALUP carries significant, binding regulatory consequences for local government in Solano County. (See, e.g., Gov. Code, § 65302.3; Pub. Util. Code, § 21676.) Government Code section 65302.3, subdivision (a) specifies that at all times a county's or city's general plan, as well as any applicable specific plans, ‘shall be consistent’ with an airport land use commission's plan and that every affected county and city must amend its general and specific plans as necessary to keep them consistent with an applicable commission plan (see *id.*, subd. (b)).

“[Footnote: In its entirety, Government Code section 65302.3 provides: ‘(a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code. [¶] (b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code. [¶] (c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.’]”

“Any local agency seeking to amend its general plan in a way that affects an area governed by an airport land use compatibility plan must first refer its proposed action to the responsible commission for a determination whether the proposed action is consistent with the airport land use plan. If the commission determines the amendment is not consistent, the agency may not enact it unless a two-thirds supermajority of the agency's governing body votes to override the commission's disapproval and the agency makes specific findings that its proposed action is consistent with the purposes of the State Aeronautics Act. (Pub. Util. Code, § 21676, subd. (b).) Thus, even in the event a local authority invokes the override provision, the State Aeronautics Act scheme still controls.

“[U]nder these statutes an airport land use compatibility plan can operate like a multijurisdictional general plan to trump the land use planning authority that affected jurisdictions might otherwise exercise through general and specific plans or zoning.”

(41 Cal.4th at pp. 384-85; see also, *Muzzy Ranch II, supra*, 164 Cal. App. 4th at pp. 6-7.)

After the Commission carries out its role of including protective policies in the Travis AFB Land Use Compatibility Plan, the County then chooses whether (1) to make the County General Plan consistent with the policies of the Travis AFB Land Use Compatibility Plan, or instead (2) to override those Commission policies in the County General Plan after making findings pursuant to Public Utilities Code section 21676. Section 21676 provides that a “local agency” may propose to overrule the Commission by a four-fifths vote of the Board of Supervisors if the Board makes specific findings that the proposed action is consistent with specified purposes of the State Aeronautics Act. (Because the only local agency affected by the proposed Amendment in this instance would be the County, only the County would be confronted with that choice, and not the incorporated cities.)

Thus, under the State Aeronautics Act (“SAA”), while land use compatibility plans issued by airport land use commissions have mandatory weight, counties and cities retain the ultimate say on land use in their respective jurisdictions, through their opportunity to take further action in response to the Commission’s land use compatibility plans and consistency determinations. In other words, “the [State Aeronautics Act] giv[es] the local legislative body the ultimate authority to regulate land use within the airport land use plan area.” (*Citizens for Planning Responsibly v. County of San Luis Obispo* (2009) 176 Cal. App. 4th 357, 372-73.)

* * *

For the above reasons, a sound governmental purpose and need exists for the Commission’s adoption of the proposed Amendment, and the Commission has the legal authority to adopt the proposed Amendment.

The Commission has a *general* affirmative legal obligation to protect the operations of Travis AFB by imposing height restrictions in circumstances where the Commission itself determines that height restrictions are appropriate. Adoption of this *particular* proposed Amendment, however, is a discretionary action, and the Commission is not legally required to adopt it if the Commission itself determines that this proposed Amendment is not appropriate under the circumstances.