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July 16, 2024

**VIA E-MAIL**

Dana Morrison  
ALUC Executive Officer  
Napa County  
1195 Third Street, Suite 210  
Napa, CA 94559  
*dana.morrison@countyofnapa.org*

**Re: Napa Countywide ALUCP Update**

Dear Ms. Morrison:

We represent Hess Persson Estates Winery, which owns property in the Airport Influence Area (“AIA”) of the Napa County Airport. Only recently did we (or our clients) learn of the Napa County Airport Land Use Commission’s (“ALUC”) impending intent to adopt a wholesale update of the Napa Countywide Airport Land Use Compatibility Plan (“ALUCP”) on July 17, 2024, including the related preparation of an Initial Study/Negative Declaration (“IS/ND”).

We were surprised to learn of these efforts barely a week before the intended adoption date, particularly given recent controversies regarding the ALUCP. We do not know what public noticing has been provided to date, but it appears not to have been sufficient to notify all interested parties, and public outreach and coordination in connection with the update generally appear to have been minimal.<sup>1</sup> Certainly our clients appear to have received no direct notice.

We have not had time to fully review the proposed ALUCP update, much of which requires technical expertise to properly assess. The limited review we have been able to conduct, however, with the assistance of aviation consultant Nick Johnson (at Johnson Aviation), has raised significant concerns. We also have identified significant inadequacies in the IS/ND.

While our preliminary comments are set forth below, we are strongly urging the ALUC to defer action on the proposed ALUCP until such time that a robust public process can occur, and all interested parties have been provided with an opportunity to comment on any update. The ALUCP stands to guide local planning efforts within the Napa County AIA likely for decades

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<sup>1</sup> It appears that general public involvement may have been limited to: (i) a February 1, 2023 “kick off” ALUC meeting; (ii) a December 7, 2023 public workshop; and (iii) a May 29, 2024 ALUC meeting. We do not know the extent to which any public comment actually was provided at any of these meetings.

(the current ALUCP has not been amended in some 25 years), and there has been disagreement in the past regarding the way the ALUCP should be prepared and administered, particularly with respect to the development of residential uses, which are an ongoing matter of statewide concern. It is imperative that sufficient time be given to all interested parties, and that the time be taken to prepare an ALUCP that reflects the input of a wide variety of public and private stakeholders. If the ALUC were to proceed now, such action also would be subject to numerous legal infirmities.

### **1. Inter-Jurisdictional Coordination and Public Involvement Regarding the Proposed ALUCP Update Have Been Insufficient**

Any change in an ALUCP—much less wholesale adoption of a new ALUCP in light of recent controversies—will have substantial implications for both public and private entities. Under state law, for instance, local agencies must amend their local planning documents within 180 days (or approve an override) in order to maintain consistency with an updated ALUCP. (Gov. Code, § 65302.3.) If an agency fails to take such action, it is required to submit all land use development actions involving property in the AIA to the ALUC for review. (Pub. Util. Code, § 21676.5.) Coordination with local agencies (which, here, involves Napa County as well as the City of Napa and the City of American Canyon) thus is critical. Indeed, the California Airport Land Use Planning Handbook notes that “[i]nformation and input from local agencies is essential to the preparation of airport land use compatibility plans,” particularly in those instances where proposed changes may affect local plan consistency with the ALUCP. (Handbook, § 2.4.)

This interaction between ALUCPs and local planning efforts is particularly important for housing, which is an ongoing matter of statewide concern. (See, e.g., Gov. Code, § 65589.5(g) [Legislature finding “that the lack of housing, including emergency shelter, is a critical statewide problem”]; see also *id.* § 65589.5(a)(2) [“California has a housing supply and affordability crisis of historic proportions.”].) Housing law has considerably evolved over the past decades, with the adoption and/or strengthening of laws such as the State Housing Element Law, Housing Crisis Act, Housing Accountability Act, and State Density Bonus Law). ALUC implementation of any airport-related planning obligations under the State Aeronautics Act must be implemented within this broader housing-related context, and any obligations under the statutes must be harmonized. (See *Linovitz Capo Shores LLC v. California Coastal Commission* (2021) 65 Cal.App.5th 1106, 1117 [where multiple statutes are involved, they must be harmonized to give force and effect to all relevant provisions].) It is not clear that the current draft ALUCP update fully considered its potential implication within this broader context, particularly in the City of American Canyon, where a substantial portion of land is located within the Napa County Airport AIA.<sup>2</sup>

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<sup>2</sup> For example, within Compatibility Zones A through D1, the draft ALUCP update purports not to allow development in commercial zones that otherwise is provided for under state law. (Draft ALUCP, § 2.7.4.) The draft also appears not to have substantively considered all potentially relevant state housing laws, including for instance SB 35/SB 423 (Gov. Code, § 65913.4) and portions of the Housing Accountability Act that pertain to housing for very low, low, or moderate income households (*id.* § 65589.5(d)).

Notwithstanding the above, it does not appear that a fulsome public process has occurred. We are concerned that coordination with the City of Napa and the City of American Canyon has been lacking. For instance, the City of American Canyon currently is undergoing its own General Plan update, and it does not appear that the draft ALUCP substantively accounted for updates being considered. Both the ALUCP and General Plan will guide development potentially for decades, and it is vital that these efforts be coordinated. It also is our understanding that there are many private landowners within the Napa County Airport AIA who, like our clients, have been totally unaware of the ongoing ALUCP planning process, and whose ability to develop their property could be substantially impacted. Action on the proposed ALUCP update, therefore, should be postponed to allow for inter-jurisdictional coordination and a robust public process.

## **2. Adoption of the ALUCP Update as Currently Proposed Would be Arbitrary, Capricious, Lacking in Evidentiary Support, and Unlawfully Unfair**

We engaged Nick Johnson (at Johnson Aviation) to assist in a preliminary review of the draft update. Given substantial time constraints, Mr. Johnson only completed an initial analysis. That review, however, reflects significant issues with the proposed ALUCP update that would render any ALUC approval arbitrary, capricious, lacking in evidentiary support, and unlawfully or procedurally unfair. (See *Muzzy Ranch. Co. v. Solano County Airport Land Use Commission* (2008) 164 Cal.App.4th 1, 13 [standard of review for ALUCP is whether decision was “arbitrary, capricious, entirely lacking in evidentiary support, or unlawfully or procedurally unfair”].)

The various deficiencies are summarized in more detail in the attached technical memorandum from Mr. Johnson (see **Exhibit 1**) and are broadly summarized as follows:

- The wholesale ALUCP update was developed without sufficient local agency and public involvement, particularly given potential impacts on these parties.
- There is no analysis of policy changes from the now existing ALUCP.
- The draft ALUCP includes composite compatibility zones that conflate noise, safety, overflight, and airspaces protection criteria rather than providing form-based, individual criteria that would allow local agencies and landowners the ability to plan and develop the highest and best use of land within an AIA.
- The aviation noise analysis is factually incorrect, overstated, technically inadequate, and in conflict with other published airport-related analyses.
- The aviation safety information is outdated, factually incorrect, overstated, and technically inadequate as the basis for establishing the respective safety zones.
- Compatibility Zone D1 references Caltrans Handbook Zone 6 but only follows the Caltrans guidance with regard to dimensions while ignoring the land use

guidance allowing residential development based on the actual low safety risk and reasonable overflight notification.

- The aviation overflight information is factually incorrect, overstated, and technically inadequate as the basis for establishing the compatibility zones.

### **3. The IS/ND is Flawed and Fails as an Informational Document**

In addition, the IS/ND prepared in connection with the proposed ALUCP update is technically inadequate and largely conclusory. As presently constituted, it does not constitute substantial evidence supporting a conclusion that there would not be any significant impacts.

#### *(a) The Displacement Analysis is Methodologically Flawed and Confusing*

As the IS/ND recognizes, adoption of an ALUCP has the potential to indirectly cause the displacement of otherwise planned development to other areas, leading to environmental impacts in those other areas. (*Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372, 383 [“[A] government agency may reasonably anticipate that its placing a ban on development in one area of a jurisdiction may have the consequence, notwithstanding existing zoning or land use planning, of displacing development to other areas of the jurisdiction.”]; see also *Saint Vincent’s School for Boys, Catholic Charities CYO v. City of San Rafael* (2008) 161 Cal.App.4th 989, 1006 [considering displacement].) Such displacement could occur where an updated ALUCP would restrict development compared to what otherwise would be allowed under local agency planning documents, resulting in a need to develop those uses elsewhere.

Here, while the IS/ND purports to analyze displacement, the analysis is flawed. Rather than comparing what would be (dis)allowed under the ALUCP update with what otherwise is contemplated in local planning documents (e.g., local General Plans and Zoning Ordinances), the IS/ND principally compares “land use compatibility in the 1999 ALUCP against the proposed [ALUCP].” (IS/ND, pp. 11, 14.) The operative question is *not*, however, whether the proposed ALUCP might allow more or less development in certain zones as compared to the currently operative ALUCP (which has not substantively been updated in 25 years). The question is whether the proposed ALUCP might displace land uses that are *currently planned for* in local agency planning documents, forcing such planned development to instead locate elsewhere.<sup>3</sup> The now-existing ALUCP provisions may be one of various factors to consider in concert with this analysis, but they should not be the primary point of comparison in the displacement analysis.

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<sup>3</sup> A displacement analysis prepared for the Lake Tahoe Airport ALUCP, for instance, states: “[p]otential displacement occurs where a *currently* allowed land use is deemed incompatible under the policies and compatibility criteria of the Draft ALUCP.” (<https://tinyurl.com/zanu8sv8>, p. 3-1 [emphasis added].) That analysis went to consider the then-existing ALUCP land use compatibility zones as one of various factors.

This basic failing in the IS/ND’s methodology may best be reflected in the conclusion that displacement would not occur because the update could “result[] in the addition of 40,499 potential units” within a portion of the Napa County AIA.<sup>4</sup> (IS/ND, p. 15.) This statement lacks any supporting analysis and appears to be based on the fact that newly proposed Zone D2 would allow for residential uses of up to 20 dwelling units per acre, where such uses are not currently allowed within Zone D. (*Id.*) There does not appear to have been any consideration, however, as to whether (or to what extent) local land use plans even allow (or ever could allow) residential development (much less at what density) on the more than 2,000 acres of land needed to achieve 40,499 units at 20 units per acre. Lacking any further analysis, the purported “addition” of some 40,499 units, based solely on a comparison of the current and the proposed ALUCP, is illusory, and the IS/ND cannot meaningfully evaluate the extent to which displacement may occur.<sup>5</sup>

The displacement analysis, in and of itself, is also vague, confusing, and conclusory. The analysis merely summarizes rather than shows and/or details any informed analysis. Instead of analyzing individual parcels, the IS/ND also compares various “zones,” which term is used at times to refer to: (i) current ALUCP land use compatibility “zones”; (ii) proposed ALUCP land use compatibility “zones”; and (iii) local agency “zones.” In many instances, it is unclear which “zone” is being referenced, rendering portions of the analysis vague and essentially meaningless. The IS/ND also continually refers to overlapping “zones,” as though such areas are self-evident, leaving the reader with the likely impossible task of decoding what parcels statements such as the following are referencing: (i) “59.37 acres of land that were in Zones C-D of the 1999 Adopted ALUCP that are outside of the Draft 2024 ALUCP AIA” (p. 12); (ii) “Zones A and B1, B2, and B3 where land is outside adopted Zones A-D” (p. 15); and (iii) “1650.37 AW:AC-zoned acres of Draft Zone B3 that are within Adopted Zone E and outside of Adopted 1999 ALUCP AIA” (p. 15). Lacking any further clarification—or maps or other visual depictions—a reader cannot possibly be expected to meaningfully review the displacement analysis.

Our preliminary review also identified the following additional issues:

- In addition to land use compatibility (i.e., ALUCP zones), the displacement analysis should consider displacement that could occur due to noise policies or any other ALUCP factor that might reasonably displace development.
- The IS/ND’s singular reference to local agency zoning, to the exclusion of applicable General Plan land use designations, lacks justification. Under the State Housing Accountability Act, a housing development project is deemed to be

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<sup>4</sup> Elsewhere, the IS/ND similarly states that the ALUCP update “would allow for 4,213 additional units, compared to the 1999 Adopted ALUCP,” within the Angwin Airport-Parrett Field AIA. (IS/ND, p. 13.)

<sup>5</sup> On the other hand, to the extent the ALUCP update would in fact provide for the “addition of 40,499 potential units,” any such substantial addition of residential uses, as well as any related displacement of non-residential uses currently planned for in these areas, should be analyzed in the CEQA document.

consistent with local standards—and does not require a rezoning—if the project is consistent with applicable General Plan standards and criteria but the zoning is inconsistent with the General Plan (i.e., development may proceed even if residential uses are not allowed in the zoning). (Gov. Code, § 65589.5(j)(4.)) Any displacement analysis therefore must consider the local General Plans.

- It is unclear whether the IS/ND accounted for any land that may not *currently* be designated for residential use, but which is part of a program to rezone for such *future* use as part of an agency’s Housing Element, to meet RHNA obligations.<sup>6</sup> The IS/ND also should consider the extent to which, generally, any other local land use planning documents might generally contemplate future residential use on parcels within the AIA that may not already be zoned for such use. Given the long-term nature of the ALUCP, the IS/ND should have considered not only the local agencies’ current housing elements but also housing demand that will undoubtedly increase in the region beyond the current RHNA cycle.
- The IS/ND does not discuss the City of American Canyon’s pending general plan update process. The NOP for the City’s update was issued in July 2022, so the ALUC had notice of this pending action, which should be considered a reasonably foreseeable project for purposes of analysis under CEQA.
- The analysis should have considered displacement that might potentially result from reduced Floor Area Ratios (“FAR”) for non-residential uses, not just displacement of categories of non-residential uses themselves. Reduced FARs could have meaningfully impacts on the viability of uses on particular parcels.

In short, the IS/ND’s displacement analysis is methodologically flawed, incomplete, and confusing in a manner that precludes any meaningful public review. A new analysis should be prepared that evaluates any potential displacement that may occur in relation to local planning documents and in the context of State Housing Laws, and which does so in a manner that is both parcel-specific and clear. Presumably, this requires preparation of a separate technical analysis, as has been done in other CEQA documents prepared for other ALUCPs,<sup>7</sup> as opposed to the relatively brief, summary analysis currently presented in the IS/ND. Lacking any such thorough, technical analysis, substantial evidence does not exist to support the IS/ND’s conclusions.

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<sup>6</sup> Under State Housing Element law, local agencies are required to accommodate their share of regional housing needs (or “RHNA”). (Gov. Code, § 65580 et seq.) As part of this process, Housing Elements must “identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction’s share of the regional housing need for all income levels.” (Gov. Code, § 65583.2(a)). This can result in the identification of land to be rezoned for residential uses.

<sup>7</sup> See, e.g., Appendix A to the IS/ND for the Mather ALUCP (<https://tinyurl.com/4wh6p53d>) and the displacement analysis for the IS/ND for the Lake Tahoe Airport ALUCP (<https://tinyurl.com/zanu8sv8>). Each of these analyses included a parcel-specific analysis of potential displacement within the AIAs.

(b) *The Faulty Displacement Analysis Renders the IS/ND Insufficient, and the Analysis as it Currently Exists is Deficient*

The faulty displacement analysis renders the remainder of the IS/ND inadequate, as each individual environmental topic simply cross-references the displacement analysis. The analysis as it currently stands also is, in and of itself, insufficient. For each environmental topic, the IS/ND summarily states that the displacement analysis “found that displacement effects would be less than significant.” (See, e.g., IS/ND, p. 24.) But the displacement analysis only found that, for each of the two airports, there would be “no significant displacement.” (See, e.g., IS/ND, p. 18.) This is not the same as saying that impacts for each respective environmental topic would be less than significant; each section still requires its own separate analysis. Following preparation of an updated displacement analysis, Section 5 of the IS/ND should be updated to provide analysis that is specific to each environmental area, according to the extent any displacement might occur.

(c) *The IS/ND Suffers From Various Other Deficiencies*

In addition to the above overall concerns, we identified the following deficiencies:

- The IS/ND’s analysis of Population and Housing refers only to Napa County’s RHNA allocation and fails to mention the independent obligations of the City of Napa and the City of American Canyon respectively. (IS/ND, pp. 44-45.)
- The IS/ND’s cumulative analysis improperly limits its analysis to “other airport planning projects.” (IS/ND, p. 54.) Under CEQA, however, “cumulative impacts” refers to “two or more individual *effects* which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355 [emphasis added].) These effects may be changes resulting from a single project or from other closely related past, present, and reasonably foreseeable probable future projects. (*Id.*) Nothing in this language allows the IS/ND to limit its consideration to “other airport planning projects.” In a revised IS/ND, the analysis should consider the proposed ALUCP update in the context of any closely related past, present, or reasonably foreseeable projects, including but not limited to the City of American Canyon’s general plan update.

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Based on the foregoing, we urge the ALUC to postpone action on the ALUCP update until a robust public process has occurred, and all of the relevant issues have been considered. In connection with such further process, we request an opportunity for our team, including Mr. Johnson, to meet with the ALUC and its consulting team regarding the proposed update.

Dana Morrison  
July 16, 2024  
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We appreciate the opportunity to submit these comments. Please do not hesitate to contact me if you have any questions regarding any of the above.

Sincerely,



Clark Morrison

cc: Wendy Atkins, ALUC Staff Liaison ([wendy.atkins@countyofnapa.org](mailto:wendy.atkins@countyofnapa.org))  
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**EXHIBIT 1**

**EXHIBIT 1**

## Technical Memorandum

To: Clark Morrison, Cox, Castle & Nicholson LLP  
From: Nick Johnson, Johnson Aviation, Inc.  
Date: July 15, 2024



Subject: Napa County Airport Land Use Compatibility Plan Update Comments

### Purpose

The purpose of this technical memorandum is to provide initial comments regarding the Draft Napa County Airport Land Use Compatibility Plan (ALUCP or “Plan”) Update and the associated Initial Study and Negative Determination (IS/ND) prepared pursuant to the California Environmental Quality Act (CEQA). Our firm has been retained to provide technical airport land use compatibility planning guidance related to the Hess Persson Estate (HPE) Winery regarding this proposed ALUCP Update located within the Napa County Airport (APC or “Airport”) and its Airport Influence Area (AIA). The focus of our comments in this memo pertain to the portions of the Plan covering Countywide issues and specifics for APC and do not address the specifics of Angwin Airport – Parrett Field. Our staff is available to engage with the County’s Project Development Team (PDT) to address the comments provided and resolve conflicts associated with the Plan and its implementation for surrounding affected landowners and local jurisdictions.

The HPE Winery is the primary landowner in the Hess Collection-Laird General Plan Amendment and Rezoning Project (“Project”). The Project site (See Figure 1) comprises approximately 279 acres located at 5750 Kelly Road, north of the City of American Canyon (“City”), on the east side of State Route (SR) 29 between South Kelly Road and Watson Lane, in unincorporated Napa County (“County”). This site is located east/southeast of APC within the APC AIA and involving the Commission and staff of the County ALUC. This location and the Project are subject to the APC ALUCP and are also subject to height restrictions by the Federal Aviation Administration (FAA) and other development restrictions by the County and the Cities of Napa and American Canyon.

The ALUC has developed a draft update to the ALUCP and has also completed an IS/ND under CEQA to support the formal ALUC adoption of the ALUCP Update. The comment period on the draft ALUCP and the IS/ND is currently open and is scheduled to close on July 17, 2024. An ALUC hearing has been scheduled for July 17, 2024, at 9 a.m. to take public comment on the Plan and IS/ND. Once an ALUCP Update has been adopted, the affected local jurisdictions will have 180 days to make their general plans and zoning codes consistent with the land use restrictions associated with the Plan as required by State law. Until the local general plans and zoning codes are consistent with the new Plan, all projects within the jurisdiction will require ALUC review.

### Draft ALUCP Review Comments

The following review comments are based on our initial review of the draft ALUCP Update and the underlying policy and technical information provided and/or cited in the draft Plan. While the Plan is voluminous in both the direct information provided and the sources cited, it fails to establish the policy authority for the layers of policy and technical requirements placed on landowners and local jurisdictions that work to control and limit highest and best use of private land within the AIA. As stated in the first paragraph of the Plan, it “updates and entirely replaces the ALUCP adopted by the Napa County Airport Land Use Commission (ALUC) in April 1991 and amended in December 1999 (1999 ALUCP).” While this update is certainly needed, the underlying overly restrictive and unfounded policy and technical basis for the Plan remains from the basic tenets of the 1999 ALUCP. That same opening paragraph goes on to state

that one of the primary drivers of the ALUCP Update is to “address stakeholders needs.” Given that landowners with property located within the AIA are the most impacted stakeholders of the Plan, it appears that this Plan would severely limit their property development options and do little to address their needs.

1. The wholesale ALUCP update was developed without sufficient local agency and public involvement, particularly given the potential impacts on these parties.

The ALUC PDT does not appear to have involved any landowners as primary affected stakeholders in the airport land use compatibility planning process. Further, while local jurisdiction representatives may have participated in meetings and received draft Plan documentation, it is unclear if anyone with airport land use compatibility planning expertise independently represented these agency participants. The ALUC was well represented by its consultants with their expertise in preparing the draft plan in this detailed policy and technical process.

It is critical to involve landowners and affected jurisdictions in an ALUCP update process and ensure that they fully understand the implications of this long-term plan. The layers of policy and technical restrictions on development need to be clear to all parties in the process. Unfortunately, this critical step has not been accomplished and further vetting and outreach is required. It has been 25 years since the last update and there is no urgency now to make wholesale changes without local agencies and the public fully understanding the effects of the Plan on their property and the highest and best use of that property.

2. There is no analysis of policy changes from the now existing 1999 ALUCP.

The ALUCP Update involves layers of policy and technical changes that represent a wholesale change from the existing 1999 ALUCP. Despite this change and despite the voluminous documentation, there is no prefatory analysis of the policy changes that ALUC staff is asking the ALUC, and subsequently the local affected jurisdictions, to adopt. ALUC staff should be able to clearly and concisely provide a comparison of the policy objectives of the current plan and the proposed plan so that decision makers and affected parties can clearly see the intent of the changes. Without this clear policy analysis, it appears that the Plan works to severely limit landowner development rights and local jurisdiction’s land use authority. To state that local jurisdictions have the power to overrule the ALUC plan both belittles the gravity of the overrule action and the level of uncertainty this state of limbo leaves for landowners in the meantime as they invest in development to drive Napa County’s economy and create housing for its residents.

3. The draft ALUCP includes composite compatibility zones that conflate noise, safety, overflight, and airspace protection criteria rather than providing form-based, individual criteria that would allow local agencies and landowners the ability to plan and develop the highest and best use of land within an AIA.

Exhibits 5-1, 5-2, 5-3, and 5-4 combine to outline land use restrictions, mapping and limitations that the Plan solidifies without individually substantiating the technical basis for these restrictions. Chapter 7 of the Plan provides background APC data for the individual safety, noise, overflight and airspace protection criteria by overstating each criterion’s basis and associated impact on land development. Cross referencing policy restrictions that are set out in Chapter 3 further complicates this web of policy and technical restrictions. The result amounts to two fundamental conclusions. First, the draft ALUCP Update is an attempt to technically justify long-standing residential land use prohibitions anywhere within the AIA that are contained in the existing 1999 ALUCP and promulgated by ALUC actions over the years. Second, the draft ALUCP Update appears to accommodate future residential construction within established flight patterns to the north (i.e., the Napa Pipe Project) while precluding the potential for development in other

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areas with less overflight and located in CalTrans' Zone 6 (which would accommodate residential development). We acknowledge the justification for accommodating residential construction to the north, but it belies the notion that non-industrial development of the Hess-Laird property would be problematic. The following comments provide additional details on each of these points.

4. The aviation noise analysis is factually incorrect, overstated, technically inadequate, and in conflict with other published airport-related analyses.

Napa County Airport is an important general aviation facility to Napa County and its residents and visitors. That stated, it is a small general aviation airport with relatively low levels of aircraft operations activity. Current demand-based levels of activity amount to approximately 65,000 annual aircraft operations, the majority of which consist of small, locally based training aircraft activity. The FAA's Terminal Area Forecast (TAF) provides a projection of APC activity out to 2050. Over that 25-year period APC activity is projected to be basically flat at approximately 68,000 annual operations.

The noise analysis associated with this ALUCP update is overstated by a factor of four at 260,000 annual operations. Not only is this top line operations information overstated, the assumed changes in makeup of the fleet mix and time of day distribution is likewise not supported by a credible demand forecast. By relying on outdated Master Plan forecasts that would not be accepted by the FAA under their current review criteria, this ALUCP update creates a factually incorrect basis for the Plan that follows.

5. The aviation safety information is outdated, factually incorrect, overstated, and technically inadequate as the basis for establishing the respective safety zones.

General aviation safety has been steadily improving over the last 20 years even with expanded numbers of aircraft operations<sup>1</sup>. The vast majority of general aviation accidents and incidents take place on and around the runway within the runway safety and protection zones. The Caltrans Handbook research into aviation safety and accident/incident information was originally produced for its 2002 Edition of the Handbook. That information was reviewed for the 2011 Handbook Update but has not been updated and refined to track with current trends in aviation safety. The Caltrans safety zones were referenced in the ALUCP update but only from a general geographic basis. The actual safety risk factors and associated land use restrictions associated with each zone is not uniformly adopted within the ALUCP update. Instead, the basic historical safety zones from the current 1999 ALUCP are largely repeated within the Plan update. These historical safety zones conflated safety, noise, overflight and airspace protection as a way of expanding the size and scope of ALUC influence over land use decisions, particularly related to residential land uses.

The individual wind, weather and activity parameters that define APC operations are the best indication of the overall safety record and level at the Airport. Despite the readily available National Transportation Safety Board (NTSB) accident and incident information available for APC, this information is not included in the ALUCP.

6. Compatibility Zone D1 references Caltrans Handbook Zone 6 but only follows the Caltrans guidance with regard to dimensions while ignoring the land use guidance

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<sup>1</sup> Aircraft Owners and Pilots Association (AOPA), The Richard G. McSpadden Report, 33<sup>rd</sup> AOPA Air Safety Institute Accident Report, <https://www.aopa.org/training-and-safety/air-safety-institute/accident-analysis/richard-g-mcspadden-report>.

allowing residential development based on the actual low safety risk and reasonable overflight notification.

Compatibility Zone D1 as identified and restricted within the ALUCP update has no basis in the actual safety risk associated with this land area. Section 7.4 of the Plan update identifies that Caltrans Handbook safety zones are used as the basis of this land use area. However, this is true only as it relates to the general geographic size and configuration of this safety zone. The Caltrans Handbook Zone 6 or overflight zone has no restrictions for residential land uses within this zone as a result of the low safety risk in this very large geographic area. Instead of unnecessarily restricting residential land use in this area, the Handbook recommends that review of overflight activity and ensuring that stringent buyer awareness disclosure is associated with these land uses. This balanced approach avoids unnecessarily restrictive limits on needed residential development while also acknowledging that some people would be annoyed by aircraft overflights and they should be fully informed before choosing to live in these areas.

#### 7. The aviation overflight information is factually incorrect, overstated, and technically inadequate as the basis for establishing the compatibility zones.

Aviation overflight information included in Chapter 7 of the ALUCP update provides little meaningful insight or necessary disclosure related to the level of land use restriction that it purports to represent. Simply showing where aircraft overfly the airport in no way represents the actual flight information that is relevant to understanding the potential impacts to residential land use. Further, the “heat map” provided as Exhibit 7-10 is of no practical decision-making value without the full data and context to understand its implications. The underlying flight data used to create this exhibit is not provided. The legend on the map provides a relative scale of high, medium and low overflight activity without defining these relative parameters. Overflight information matters as it relates to the specific types, classes, speeds, altitudes, engine types, and time of day to be of any notional value in defining overflight impact on existing or potential future land uses.

By choosing to be more restrictive than technically supported and then shift the burden of proof and analysis to landowners is a conscious choice by the ALUC to unnecessarily restrict land use beyond their policy and legal mandate and authority. This has been the history of the Napa County ALUC in the application of the existing 1999 ALUCP. Indications from the planning and results of the ALUCP Update are that the policy objectives and lack of factual technical support are intended to continue with the illusion of a more comprehensive planning document. We request instead to work closely with the RPT to broaden the input to this Plan from all affected stakeholders to ensure that its long-term approach and application will actually support and further the interests of the entire community represented within the AIA.

## Qualifications

**NICK JOHNSON**  
**PRESIDENT & CEO – JOHNSON AVIATION, INC**  
**TOTAL YEARS EXPERIENCE: 35 YEARS – 20 YEARS WITH JA, INC**

**Nick Johnson** is a Complex Strategy Advisor leading airport land use compatibility, regulatory, facilities entitlement and financial project solutions. He has 35 years of experience in airport planning and development at and near airports of all sizes. This experience includes project development on airports, off-airports and adjacent “through-the-fence” by applying a broad array of expertise from business and financial analysis to airspace and operational procedures improvement. He does so as a collaborator with teams of all sizes to meet client needs and expectations. Specialties include master plans, land use plans, lease negotiations, business strategy, facilities planning, ownership transfer, environmental entitlements, regulatory certification, security planning, real estate strategy and construction planning. Nick founded Johnson Aviation in 2004 providing leadership on high profile and contentious airport master planning and environmental projects.

Nick is currently developing a Vertiport Feasibility Study at John Wayne Airport, Orange County California for fixed-base operator ACI Jet Orange County as part of its comprehensive facilities renovation project. The FAA, through its planning, design and advisory process has acknowledged that Advanced Air Mobility (AAM) is an emerging aviation ecosystem that leverages new aircraft and array of innovative technologies to provide the opportunity for more efficient, sustainable, and equitable transportation options, including serving airport passenger access. The purpose of the study is to draw together the uncertain and developing AAM possibilities with safe, efficient, and compatible needs of constrained airport infrastructure. Building stakeholder consensus on vertiport facilities is an added objective of the study.

Nick has also worked closely with the San Diego County Regional Airport Authority (SDCRAA) on its Airport Development Program (ADP) to complete the long-term redevelopment of San Diego International Airport. He worked as part of the Authority’s team to entitle a replacement to Terminal 1, develop airfield improvements to optimize the efficiency of the busiest single-runway airport in the U.S. and optimize landside access. The project is currently under construction. He has also supported the Authority’s CFR Part 150 study update to reduce community noise impacts and improve land use compatibility.

From 2011 to 2018, Nick worked closely with the City of Ontario and the Ontario International Airport Authority (OIAA) to transfer ownership and operation of Ontario International Airport (ONT). He worked with a small team to develop the strategic business plan adopted in 2013 that defines and guides the Authority’s mission. In 2015 and 2016, Nick led a large and diverse ownership transfer team to meet all regulatory, operational, financial, environmental, and legal requirements of the FAA. That team successfully transferred the ownership and operation of the Airport in 15 months. Johnson Aviation staff continued as the Airport’s planning and development program managers for 20 months during the staffing transition negotiating long-term leases for the airport’s FBO redevelopment and for a FedEx Regional Sorting Hub relocation and expansion that is now fully operational.

Since 2017 Nick has assisted Google with the Master Planning and development of their Proposed San Jose Campus in the City of San Jose, California and within the Mineta San Jose International Airport (SJC), Airport Influence Area (AIA) in Santa Clara County California. The Google Campus has the potential to transform Downtown San Jose with many new and expanded live/work development options. By focusing on the expansion of the existing Diridon Station, the Google Campus will complete station infrastructure for the California High Speed Rail, Bay Area Rapid Transit (BART) and Valley Transit Authority (VTA) systems. The project will both improve and potentially modify SJC air service depending on the various

building heights and locations on the site. The total campus development is likely to exceed 10 million square feet of office, residential and retail uses that will be developed over the coming years.

Property redevelopment and land use compatibility on and near airports taking full advantage of the airport economic engine is one of Nick's unique contributions to airport communities. In addition to a land use compatibility plan for Colorado Springs Airport, he has also served the City of Perris, California and various developers near March Air Reserve Base in Riverside County to both preserve and expand the vitality of the Base and its civilian cargo operations. He has worked with Boeing and their development successors to redevelop manufacturing facilities at Long Beach Airport, El Segundo, Seal Beach and Mesa Arizona. Other current airport land use compatibility planning includes the City of Goleta, City of San Luis Obispo, San Diego International Airport, City of Pleasanton and Fairfax County Virginia.

Nick assisted the FAA on updates and revisions to its key airport planning guidance documents. The FAA's Master Plan Advisory Circular (AC) was revised and updated to address innovations and lessons learned in the field of airport planning. The FAA's Airport Land Use Compatibility AC was completely rewritten to address the challenges of effective land use planning near airports to ensure the safe and compatible use of nearby land while maximizing the economic development characteristics of these surrounding areas. The FAA's Solar Guidance document was updated to consider the most recent findings of solar panel glare analyses and the effects on safe air navigation.

Nick worked closely with Los Angeles World Airports (LAWA) to secure City Council approval of the LAX Master Plan entitlements that were ultimately approved in December 2004. He provided technical planning support to the legal defense team on the LAX Master Plan when it was sued in State and federal courts. Four legal challenges related to the California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) and to the National Environmental Policy Act (NEPA) ROD were successfully settled in December 2005. Nick also facilitated a required review and approval of key settlement provisions by the Federal Aviation Administration.

Nick worked with LAWA and its consulting team in the early phase of a multi-year study of key components of the LAX Master Plan. Together, they crafted an approach in close coordination with airline and community stakeholders. This planning initiative by LAWA was intended to modernize LAX and expand regional airport capacity throughout Southern California.

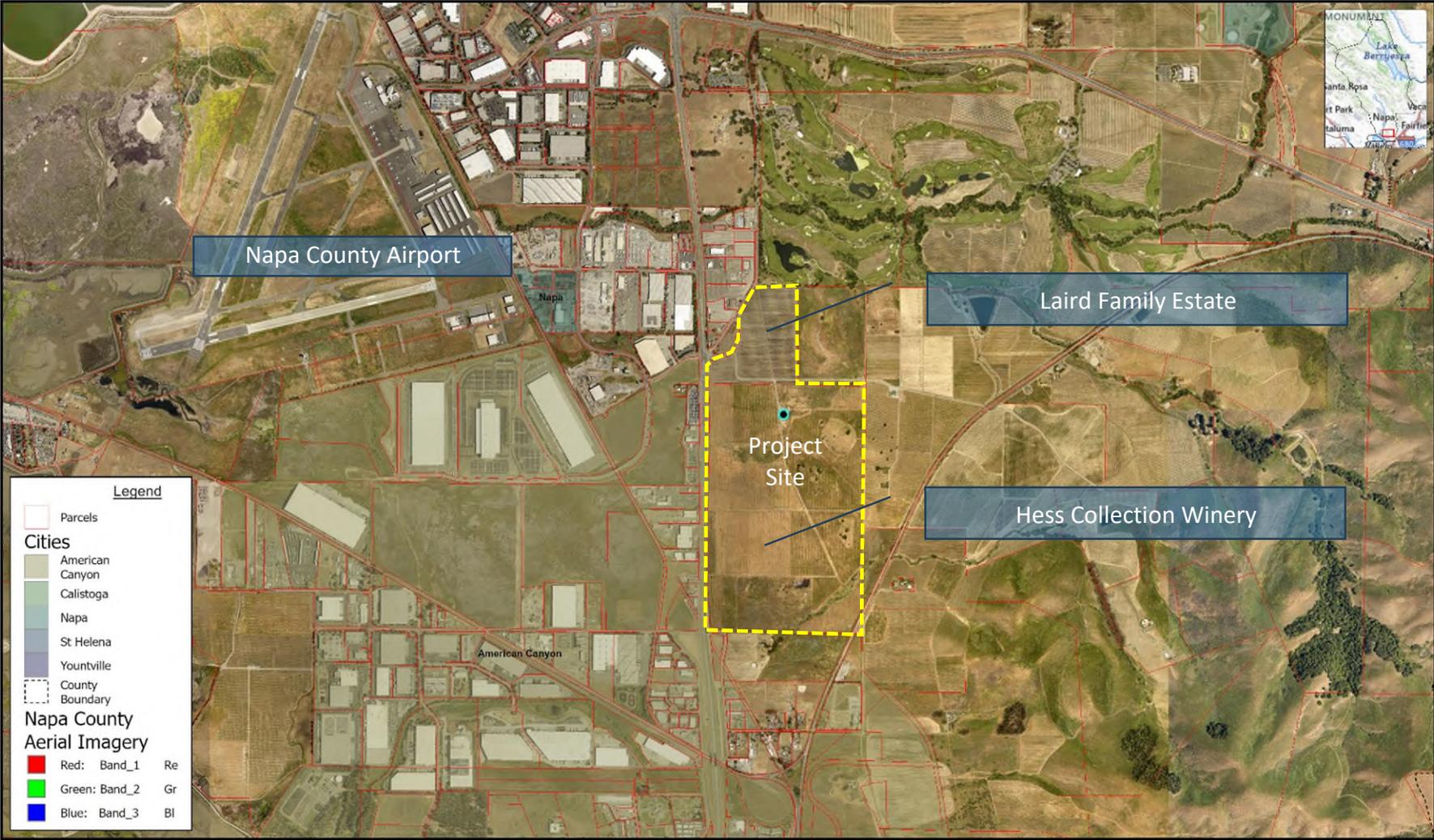
Nick provided strategic guidance to a team of airport planners from HNTB Corporation on the San Diego International Airport Master Plan. This plan was developed to meet the immediate needs of the airport and airline community while the policy for the long-term future of the airport was resolved. The Green Build terminal project was the first major plan component completed in 2013.

Prior to starting Johnson Aviation, Nick was a Vice President with Landrum & Brown in the firm's airport planning practice. He served as Landrum & Brown's Project Manager for the Los Angeles International Airport (LAX) Master Plan. He led the way in developing a plan for LAX that balanced the needs of the regional economy while finding practical solutions for the local impact to nearby communities as part of a multi-discipline consultant team. Nick also led various land re-use and property development projects for Landrum & Brown at other major California airports.

### **Education**

Master of Public Administration, Aviation Administration – Southern Illinois University  
Bachelor of Science, Aviation Management - Southern Illinois University  
Air Traffic Control Internship – Federal Aviation Administration  
Aviation Flight Program– Southern Illinois University  
General Aviation Private Pilot (9/19/1986)

Figure 1 – Hess Collection-Laird Location Map



### County of Napa

Printed On: 7/7/2024



Disclaimer: This map was prepared for informational purposes only. No liability is assumed for the accuracy of the data delineated hereon.

Produced by County of Napa | ITS Dept



July 16, 2024

**VIA E-MAIL**

Dana Morrison, Executive Officer  
Napa County Airport Land Use Commission  
1195 Third Street, Suite 210  
Napa, California 94559  
[dana.morrison@countyofnapa.org](mailto:dana.morrison@countyofnapa.org)

Re: Request for Extension of Time in Response to Notice of Napa County Airport Land Use Commission Intent to Adopt a Negative Declaration; July 17, 2024, Special Meeting; Agenda Item No. 7

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Dear Executive Officer Morrison:

The City of American Canyon ("City") is in receipt of the County of Napa ("County") Airport Land Use Commission's ("ALUC") Notice and publication of the Airport Land Use Compatibility Plan ("ALUCP") Update and Negative Declaration Adoption Hearing under the California Environmental Quality Act ("CEQA") agendized for an ALUC Special Meeting on July 17, 2024.

The City has also, in the process of the ALUCP and as a member of the Project Development Team ("PDT"), submitted comments on the ALUCP revision dated May 31, 2023, and December 14, 2023. Notwithstanding those previous comments, the City believes it would be in the interest of both the ALUC and other interested parties for a continuance of the ALUC's consideration of the ALUCP for at least sixty (60) days as referenced in this communication.

As you are aware, the City is, and has been, in the process of completing a General Plan Update of the original City General Plan dated 1994 (link: <https://www.americancanyon.gov/Work/Community-Infrastructure-Development/Growth-Development-Strategy/General-Plan-AmCan2040>).

The possibility of the coordinating the ALUCP with at least a discretionary review by the City Planning Commission to achieve consistency of proposed land-use designations within the ALUCP and City General Plan, would be beneficial for several reasons. It is estimated that the Draft City Comprehensive Plan, which has been coordinated to efforts in the ALUCP, will be released along with its companion Draft Environmental Impact Report in the immediate future.

As with the ALUCP, this effort has been extraordinary and consistent with extensive public involvement as well as review for the State mandated process of achieving consistency of the City's Housing Element with the criteria for maximizing the generation of housing and particularly affordable housing.

The achievement of a certified Housing Element is a significant step in the State mandated process for complying with the several unfunded State mandates concerning housing land-use designation and land designated for housing and affordable housing development.

The existing ALUCP addresses this process partially on pages 2-16 and 2-17. However, when the specific basis for information concerning the Napa County Airport is dealt with in Chapter 7, only the City's November 4, 1994 General Plan is referenced. *See*, p. 7-21.

Stated differently, integration between the City and ALUC would lead to a coordinated land-use document beneficial to both the ALUC and the City.

The consistency of the recently proposed ALUCP with the individual General Plan Elements and individual General Plan Goals and Policies is critical, involving detailed City analysis and review to achieve compliance with statutory and resulting General Plan internal consistency. *See*, Government Code Section 65300. This process, and analysis, and its relationship cannot be completed by the planned and agenda'd ALUC hearing date of July 17, 2024.

Based on the foregoing, the City requests an extension of time to respond on the ALUCP update agenda'd for consideration and adoption at the ALUC, to at least September 18, 2024.

There are specific areas of the existing draft that need to be corrected, noting recent actions with respect to the City Housing Element (link: <https://www.americancanyon.gov/Work/Community-Infrastructure-Development/Growth-Development-Strategy/General-Plan-AmCan2040/Housing-Element>) and its certification and approval by the State Department of Housing and Community Development.

The City is *very close* to completing the Draft Comprehensive Plan which would include the recent State-certified Housing Element for discretionary review by the City Planning Commission and the City Council. This discretionary review would add certainty to the land use designations set forth in the ALUCP which is not now certain and would avoid future piecemealed designations for areas within the land-use jurisdiction of the City.

### FURTHER PUBLIC OUTREACH

We have conferred with several landowners and residents within the ALUCP area who have not received notice of the ALUCP update or the proposed hearing of July 17, 2024, or both. We respectfully suggest that the time for the public to respond or otherwise comment also be extended to at least September 18, 2024.

The City of American Canyon Fire Protection District ("District") also did not receive adequate notice of the ALUCP revision and proposed hearing as a responsible agency. Under CEQA, the term "responsible agency" includes all public agencies, other than the lead agency, which have approval power over the project (CEQA Guidelines Section 15381). Here, the District provides fire and life safety services to the City and portions of unincorporated County, including D1 and D2 of the ALUCP area. As such the District should have received adequate notice of the Negative Declaration, which is required under CEQA Guidelines Section 15072(a).

Your consideration and response are requested.

Very truly yours,



William D. Ross  
City Attorney

cc: Leon Garcia, Mayor  
David Oro, Vice Mayor  
Mariam Aboudamous, Councilmember  
Mark Joseph, Councilmember  
Pierre Washington, Councilmember  
Jason Holley, City Manager  
Brent Cooper, Director of Community Development  
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