

## Legislation Text

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**File #:** AC 18-026, **Version:** 1

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Public hearing to consider the consistency of the Suisun Marsh Local Protection Program Update with the Travis Air Force Base Land Use Compatibility Plan (Travis Plan). (County of Solano)

### **RECOMMENDATION**

Adopt the recommended findings and determine that the Suisun Marsh Local Protection Program Update with the Travis Air Force Base Land Use Compatibility Plan.

### **INTRODUCTION**

The State Legislature enacted the Suisun Marsh Preservation Act (Marsh Act) of 1997 to protect the unique and biologically diverse lands that comprise the Suisun Marsh. The Marsh Act provides for the adoption of protection plans and policies and permits the establishment of primary and secondary management areas to be administered by the State and Solano County respectively (Exhibit I).

Among other responsibilities, the County is required to adopt and maintain a Local Protection Program for the Suisun Marsh. The Suisun Marsh Local Protection Program (LPP) includes items as broad as the County's General Plan and zoning regulations, and as narrow as minor permit requirements for grading, drainage and utility extensions.

On June 14, 2012, the Solano County Airport Land Use Commission found the County's Suisun Marsh Local Protection Program consistent with the Travis Plan.

The County is now considering some minor amendments to the Local Protection Program which include amendments to the county's general plan and zoning regulations. These amendments are subject to the jurisdiction of the Travis Plan and as such must be reviewed for consistency with the Travis Plan by the Commission.

### **Required Tests for Consistency for General Plan Amendments**

The State Department of Aeronautics has published the California Airport Land Use Planning Handbook as a guide for Airport Land Use Commissions in the preparation and implementation of Land Use Compatibility Plans and Procedure Documents. In order to be considered fully consistent with the applicable compatibility plan(s), the general plan revisions proposed must meet two specific tests, as identified in the California Airport Land Use Planning Handbook. The tests are:

1. **Elimination of any direct conflicts between the General Plan and relevant compatibility plan(s)**

Direct conflicts primarily involve general plan land use designations which do not meet the density (for residential uses) or intensity (for non-residential uses) criteria specified in the compatibility plan, although conflicts with regard to other policies also may exist.

2. **Delineation of a mechanism or process for ensuring that individual land use development proposals comply with the ALUC's adopted compatibility criteria**

Elimination of direct conflicts between a county's or a city's general plan and the ALUC's compatibility plan is not enough to guarantee that future land use development will adhere to the compatibility criteria set forth in the compatibility plan. An implementation process must also be defined either directly in the general plan or specific plan or by reference to a separately adopted ordinance, regulation, or other policy document.

There are three facets to the process of ensuring compliance with airport land use compatibility criteria:

- a. **Delineation of Compatibility Criteria**

Airport land use compatibility criteria must be defined either in a policy document adopted by the county or city or through adoption of or reference to the ALUC's compatibility plan itself.

**b. Identification of Mechanisms for Compliance**

The mechanisms by which applicable compatibility criteria will be tied to an individual development and continue to be enforced must be identified. A conditional use permit or a development agreement are two possibilities.

**c. Indication of Review and Approval Procedures**

Lastly, the procedures for review and approval of individual development proposals must be defined. At what level within a county or a city are compatibility approvals made: staff, planning commission or governing body? The types of actions which are submitted to the ALUC for review and the timing of such submittals relative to internal review and approval process also must be indicated.

## **Required Tests for Consistency for Rezoning Actions**

State law, under Section 21661.5 of the Public Utilities Code, requires that any proposed zoning regulations or revisions to the local zoning ordinance be reviewed for consistency with adopted airport land use compatibility plans. The proposed revision to the County's Zoning Regulations requires review by the ALUC.

### **Required Tests for Consistency**

#### **California Airport Land Use Planning Handbook**

The State Department of Aeronautics has published the California Airport Land Use Planning Handbook as a guide for Airport Land Use Commissions in the preparation and implementation of Land Use Compatibility Plans and Procedure Documents. Section 6.4.2 (p. 6-14) sets forth procedures for the review of local zoning ordinances and directs agencies to consider the topics listed in Table 5A, as follows:

#### ***Zoning or Other Policy Documents* (from Table 5A, CalTRANS Airport Land Use Planning Handbook)**

*The Handbook lists the following topics for consideration when reviewing zoning or other policy documents.*

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*
- *Non-conforming Uses and Reconstruction*

Staff has reviewed the Suisun Marsh Local Protection Program in light of the tests outlined above. Our analysis is presented below.

## **ANALYSIS**

### **Project Description**

The Suisun Marsh Local Protection Program consists of policies within the County General Plan and zoning regulations which implement those policies. Each of those amendments are described below and the full text of each amendment is attached to this report.

### **Proposed General Plan Amendments** (Attachment B)

The proposed general plan amendments contain numerous revisions to correct references to named documents, to accomplish reformatting and to provide additional clarity to the document. The analysis provided below ignores these clean-up edits within the general plan amendments and focuses on land use policy or regulatory changes which would be subject to review by the ALUC.

#### **1) Revisions to Chapter 4 (Resources)**

This chapter describes the Suisun Marsh and summarizes the County's Suisun Marsh LPP. The Suisun Marsh

policies have been amended and moved to the New Chapter 12, Suisun Marsh Local Protection Program Policies.

The revision in this chapter modifies the language addressing how certain land uses are managed within the secondary management area.

2) Revisions to Chapter 8 (Public Utilities)

Solid Waste:

This chapter includes a new policy addressing the Public/ Quasi-public land use designation applied to the Potrero Hills Landfill. The amendment makes clear that the only future land uses which may be considered within the Public/Quasi Public land use designation is an expansion of the Potrero Hills Landfill if such expansion meets certain tests. Upon closure of the landfill, the land use designation reverts to agricultural.

3) Revisions to Chapter 12 (Suisun Marsh Local Protection Program)

This chapter includes specific General Plan policies governing the Suisun Marsh which were previously incorporated into the Solano County component of the LLP and certified by BCDC. They include policies addressing biologic resources; wildlife habitat management and preservation; agriculture; water quality; natural gas; utilities, facilities and transportation; and recreation and marsh access.

Policies addressing scenic resources, industrial land use, and flood hazards were updated and included in the General Plan chapters described above. The Collinsville-Montezuma Hills Area Plan and Program is no longer part of the General Plan and these water dependent industrial policies are proposed to be replaced with water related industrial policies from the Suisun Marsh Protection Plan.

4) Policies Regarding Sewage Disposal Systems Within the Suisun Marsh:

The LPP, as certified by BCDC in 1999, contains a summary of the policies and regulations governing sewage disposal systems within the Suisun Marsh. The 2010 Suisun Marsh LPP amendment adopted by the Board of Supervisors on August 24, 2010, replaced these policies with Solano County Code Chapter 6.4, Sewage Disposal Standards. The 2012 Suisun Marsh LPP amendment deleted Chapter 6.4 from the LPP and once again summarized the policies and regulations governing sewage disposal systems to reflect the provisions in Solano County Code Chapter 6.4, Sewage Disposal Standards, adopted in 2001 and as amended in 2004.

## Proposed Zoning Regulation Amendments (Attachment C)

The proposed amendments to the zoning regulations include a minor relabeling of Table 28.22A to change the district designator from A-L to A-SM.

In addition, the amendment removes footnote #5 from Table 28.22A, which provided that:

*“During or subsequent to final closure of any waste disposal site, the Planning Commission may approve any beneficial reuse of the waste disposal site that (i) is compatible with the approved closure and/or post-closure plans for the site, (ii) would not be detrimental to existing or anticipated agricultural land uses in the vicinity, and (iii) would not subject occupants of the site, neighbors, or the environment, to risks associated with the wastes which have been disposed of at the site.”*

This change represents a further restriction on future land uses which may be considered on the Potrero Hills Landfill site.

## Discussion of Consistency

The ALUC is concerned with those aspects of the Suisun Marsh Local Protection Program Update that have the potential to be incompatible with any portion of the Travis Air Force Base Land Use Compatibility Plan. The overall Suisun Marsh Protection Program was previously analyzed in depth and found consistent with the Travis Plan in 2012. The Commission is only concerned with these additional provisions being contemplated with these amendments. The proposed general plan amendments and the zoning regulation amendments are each analyzed below.

## General Plan Consistency Factors

### Elimination of Direct Conflicts

The revisions to the general plan proposed by the amendment include clean-up provisions which address formatting issues, ambiguity issues and other non-substantive provisions which are not land use proposals requiring compatibility determination by the Commission. There are no new land uses proposed for the Suisun Marsh by these general plan

amendments.

As a result, the proposed general plan amendments meet the first test for consistency by the ALUC - the elimination of direct conflicts with an airport's LUCP compatibility criteria.

#### Assurance of Compliance with Compatibility Criteria

The second test for consistency is the assurance that there will be compliance with the compatibility criteria contained within any adopted LUCP's. The California Airport Land Use Planning Handbook provides guidance to local ALUC's in making consistency determinations on General Plans.

*Elimination of direct conflicts between a county's or a city's general plan and the ALUC's compatibility plan is not enough to guarantee that future land use development will adhere to the compatibility criteria set forth in the compatibility plan. An implementation process must also be defined either directly in the general plan or specific plan or by reference to a separately adopted ordinance, regulation or other policy document.*

The Handbook identifies three facets to the process of insuring compliance with airport land use compatibility criteria:

a. Delineation of Compatibility Criteria-

*Airport land use compatibility criteria must be defined either in a policy document adopted by the county or city or through adoption of or reference to the ALUC's compatibility plan itself.*

Consistency between the Suisun Marsh Local Protection Program general plan amendments and the Travis Plan is established by County's General Plan Land Use Element requiring that land use changes and development proposals within the unincorporated county areas shall be consistent with the Nut Tree Airport, Rio Vista Airport and Travis Air Force Base Land Use Compatibility Plans (ALUCP's).

This in effect gives the County a basis for requiring that projects under review comply with the applicable Airport land Use Compatibility Plan.

b. Identification of Mechanisms for Compliance-

*The mechanisms by which applicable compatibility criteria will be tied to an individual development and continue to be enforced must be identified. A conditional use permit or a development agreement are two possibilities.*

Adoption of the Suisun Marsh Local Protection Program general plan amendments does not authorize any development. Subsequent permitting actions by the County will be required, issuance of a Marsh Development Permit. Tentative subdivision maps will also be required. Under California state law, both the rezoning and the tentative subdivision maps must be consistent with the County's General Plan. This requirement addresses conformance with applicable LUCP's and as such, the County's mechanism for compliance is adequately assured.

c. Indication of Review and Approval Procedures-

*Lastly, the procedures for review and approval of individual development proposals must be defined. At what level within a county or city are compatibility approvals made: staff, planning commission or governing body? The types of actions which are to be submitted to the ALUC for review and the timing of such submittals relative to the internal review and approval process must be indicated.*

Per state law, legislative actions (e.g., General Plan Amendments and Zoning Ordinance Amendments) that have an impact on the Travis LUCP must be approved by the Solano County Board of Supervisors following a public hearing. They must also be reviewed by the ALUC prior to the Board's action.

## **Conclusion**

The amendments to the 2008 Solano County General Plan discussed above do not create any direct conflicts with the Airport Land Use Compatibility Plans adopted by the Airport Land Use Commission nor do they alter the mechanisms in place to assure compliance with those Land Use Compatibility Plans.

## **Zoning Change Consistency Factors**

*As previously discussed, the CalTRANS Handbook lists the following topics for consideration when reviewing zoning or other policy documents.*

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*

- *Non-conforming Uses and Reconstruction*

The amendment to the zoning regulations being considered eliminates the following footnote from Table 28.22A in the Agriculture-Suisun Marsh District:

*“During or subsequent to final closure of any waste disposal site, the Planning Commission may approve any beneficial reuse of the waste disposal site that (i) is compatible with the approved closure and/or post-closure plans for the site, (ii) would not be detrimental to existing or anticipated agricultural land uses in the vicinity, and (iii) would not subject occupants of the site, neighbors, or the environment, to risks associated with the wastes which have been disposed of at the site.”*

Elimination of this footnote reduces the range of land uses which can be considered for the Potrero Hills Landfill Site and consequently none of the listed topics from the CalTRANS Handbook are impacted.

As a consequence, the zoning amendment for the Suisun Marsh Local Protection Program is consistent with the Travis Plan.

#### **RECOMMENDATION**

Based on the analysis and discussions above, Staff recommends that the Solano County Airport Land Use Commission take the following action:

**Action:** Adopt the recommended findings and determine that the Suisun Marsh Local Protection Program Update with the Travis Air Force Base Land Use Compatibility Plan.

#### **ATTACHMENTS**

Attachment A: Suisun Marsh LPP Amendment Draft Initial Study

Attachment B: General Plan Amendments

Attachment C: Zoning Regulation Amendments

Attachment D: Travis Plan Context Map