



MAYOR & COUNCIL COMMUNICATION

October 25, 2004

**Subject: Land Use Code and Map Amendment - Airport
Environs Zone/Davis-Monthan Airport Environs – PUBLIC
HEARING AND ORDINANCE ADOPTION (City-Wide)**

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Issue – This is a public hearing regarding a map and text amendment to Chapter 23, Land Use Code (LUC), Airport Environs Zone (AEZ).

City Manager's Recommendation – The City Manager recommends that the Mayor and Council adopt the attached ordinance. It is also recommended that the Mayor and Council direct staff to further implement the Joint Land Use Study (JLUS) by:

- 1) pursuing land swaps, transfer of development rights, and purchases;
- 2) establishing a JLUS community team to work on a mitigation plans;
- 3) aggressively pursuing Congressional appropriations for sound attenuation; and
- 4) pursuing the State Military Installation Fund appropriations.

Procedural Information – Since new properties are being designated as a part of the AEZ Map Amendment, the overlay zone boundary change is considered a rezoning. As such, the LUC provides that protests of twenty percent (20%) of the area within the zone would require a $\frac{3}{4}$ majority vote of the Mayor and Council to adopt. To date, 615 protest and 127 approval forms have been received. Therefore, a simple majority vote of the Mayor and Council is required to adopt the AEZ zoning boundary change. Updated protest and approval information will be provided at the October 25, 2004 public hearing.

Background – The Davis–Monthan (DM) Joint Land Use Study (JLUS) for military airport preservation was the result of a year of study and discussion by a wide range of stakeholders. Mayor and Council endorsed the recommendations of JLUS in February 2004. The amendments proposed are in compliance with the JLUS and House Bill 2140. House Bill 2140 was enacted in May 2004 to ensure that development around DM is compatible with current and future Base operations by requiring political subdivisions to adopt and enforce zoning regulations based on the recommendations presented in the JLUS for property in the high noise and accident potential zones.

The interim AEZ zoning regulations adopted by Mayor and Council on October 28, 2002 for DM will “sunset” on November 28, 2004. It is essential that these amendments be considered for adoption in order to avoid lapsing of the regulations.

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Planning Commission Recommendation – This item was before the Planning Commission in study session on August 4, 2004, and before the Planning Commission in public hearing on September 1, 2004, at which time the item was continued to October 6, 2004. On October 6, 2004, the Planning Commission held a continued public hearing on the proposed amendments. The Planning Commission suggests 1) pursuing land swaps, transfer of development rights, and purchases, 2) community education and 3) aggressively pursuing appropriations for sound attenuation. The Commission voted unanimously (13-0, Evans, Gastelum, Hamed, Kaucher, Lawrence, Lurie, McBride-Olsen, Metcalf, Patrick, Powers, Sayler-Brown, Thomson, and Williams) to recommend that Mayor and Council take no action on the proposed AEZ amendment, extend the interim regulations to December 31, 2005 and send the proposed amendment back to the Planning Commission to resolve the issues. See Attachment A, Letter from the Planning Commission Chairman.

Discussion of Related Issues- A list of Frequently Asked Questions and Answers is included as Attachment B to summarize the concerns reiterated by residents within the DM environs during the amendment process. In response to the public's request, DM has committed to prepare an Environmental Impact Statement (EIS) for any mission additions that may occur. As a result of the Base Realignment and Closure (BRAC) process, DM could increase or decrease missions or stay the same. In addition, staff intends to aggressively pursue funding for a sound attenuation program for residences within the high noise areas, similar to the program implemented for the Tucson International Airport environs. The JLUS, DM and the Department of Defense support such a program. It is staff's opinion that the most effective effort to secure an appropriation should be made following the 2005 BRAC round. The comprehensive recommendations of the JLUS consist of several long-term implementation strategies with various schedules. A description of the recommended implementation strategies is included (Attachment C). One initial strategy is to amend the Airport Environs Plan. The City is required to complete the plan amendment by the end of 2005 to comply with A.R.S. §28-8481. This process will provide an opportunity for extensive public input and continued discussions regarding mitigation programs, potential land exchanges and community education as recommended by the Planning Commission.

Another implementation strategy is City participation in rulemaking associated with the Arizona Military Installation Fund (MIF). Rulemaking meetings began in late September and final rule publication is anticipated in July 2005. The MIF appropriations are for preservation and enhancement projects such as land acquisition and represent an initial funding source essential to future mitigation programs. Once the rulemaking is completed, the MIF will be available.

Questions have been raised about how to preserve existing development rights for properties within the AEZ that the property owner has plans to develop in the near future, but will be unable to secure building permits within the next month. As a part of the attached ordinance, provisions are made for protected development rights plans. Property owners must file a letter of intent to pursue protected development rights by November 24, 2004; submit protected

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development rights plans (as defined in the LUC, see Attachment D) to the City Development Services Center by December 30 at 5:00 p.m.; and have such plans approved by the Mayor and Council as protected development rights plans by March 1, 2005. By following such a procedure, property owners will be assured the ability to develop in compliance with the existing AEZ regulations for a period up to 3 years, or 5 years for a phased development.

Another issue that has been raised is related to future changes to the AEZ regulations or noise contours. The City has committed to a public process (like JLUS) prior to adoption of any new DM AEZ regulation or map change. In addition, the City has committed to review the noise contours annually with respect to current and future operations information provided by Davis Monthan and the Department of Defense representatives. City staff will report to the Mayor and Council regarding any new operations/mission information potentially affecting the noise contours. This is reaffirmed in the attached ordinance.

Several questions were submitted to staff immediately prior to the Planning Commission October 6, 2004, public hearing. Responses have been prepared for those questions that staff can answer, other questions have been referred to Davis-Monthan. (See Attachment E, Responses to October JLUS Questions.)

Proposed Code Amendments – Amendments proposed for the AEZ include the designation of three Approach-Departure Corridors (ADC) and two high noise districts (NCD) defined for the DM environs and the existing Airport Hazard District (AHD) (See map Attachment F). Sections establishing performance criteria, prohibited land uses and exceptions to the prohibited land uses associated with each new ADC and NCD have also been provided.

The Accident Potential Zones, APZ-1 and APZ-2, defined in the current regulations have been combined and designated as ADC-1. ADC-2 is identified as an area from 0 to 30,000 feet southeast of the end of the DM runway. The area located 30,000 to 50,200 feet southeast of ADC-2 has been designated as ADC-3.

Generally, the amendment prohibits new residential development within the ADC districts and limits the project site area, the floor area ratios and the number of employees for all non-residential development in these areas. The ADCs are differentiated from each other by two main factors: the built up nature of the area to the northwest of the base and the distance from the end of the runway to the southeast. The land use restrictions in the ADCs vary based on those criteria. ADC-1 is established on the northwest end of the runway, replacing the Accident Potential Zones-1 and -2 that were adopted in 1990. ADC-2 extends out from the southeastern end of the runway to 30,000 feet. Land uses in ADC-2 are limited primarily to manufacturing, warehousing, and storage uses. ADC-3 extends out from the southeastern end of the runway from 30,000 feet to 50,200 feet. ADC-3 allows for a wider range of uses, with limited commercial uses allowed. Land uses such as churches, schools, and daycare centers are prohibited in all three districts.

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Flexibility has been provided in the amendment allowing developers to average the density of employees and the floor area ratio over a large business or industrial park with multiple buildings. The JLUS supports the concept of transfer of development rights (TDR) to encourage the provision of open space within the Approach Departure Corridor. This concept must be carefully developed to assure legal conformance with statutory requirements.

The proposed NCDs were established by computer modeling using data concerning future DM operations. NCD-A represents the 65-70 Ldn noise contour and NCD-B represents the 70+ Ldn noise contours. It is important to note that all high noise contours are the result of computer modeling, including the currently adopted noise contours. The hypothetical contours are based on the assumption that the A-10s will be retired and replaced with a single engine aircraft that will be noisier than the A-10s. The noise contours proposed for adoption are based on F-16s. Both the JLUS and A.R.S. recognize the hypothetical noise contours. The City has agreed that the noise contours, once adopted, will not be changed unless a process similar to the JLUS's is accomplished.

Provisions requiring sound attenuation for noise sensitive development proposed within the NCD-A and NCD-B are also included. Tucson does not have an adopted sound attenuation building code. Currently, the Energy Efficiency Code is used to assure a 20 decibel level decrease. To achieve the newly required 25 decibel decrease, a new Development Standard is proposed (Attachment G). The amendment does not require retrofitting existing homes in accordance with the sound attenuation standards is not required.

Policy Direction – Direction in support of the amendment is provided by the *General Plan (GP)* adopted in 2001, and the *Airport Environs Plan, Arroyo Chico, South Pantano, Esmond Station, Rincon/SE Subregional* plans, as well as the *DM Joint Land Use Study* and state law enacted in May 2004 regarding military airport planning. The *GP* policies are long term, broad based, and apply to the entire City, whereas the *Arroyo Chico, South Pantano, Esmond Station, Rincon/SE Subregional* plans are more specific and apply to the respective plan areas.

General Plan. Policies included in the *GP* are intended to promote safe neighborhoods, sustainable development and to support the retention and expansion of existing development. DM was incorporated into the City in 1986 and is Tucson's second largest employer. Approximately 6,200 military and 2,000 civilian employees work at DM and nearly 9,000 military dependents and 14,000 military retirees reside in the Tucson area. The authorized personnel at DM increased 25% since 1993, and are projected to increase by over 10% between 2003 and 2008. The *GP* specifically states that DM is a land use of regional significance and a key factor in Tucson's economy.

The Airport Environs Plan. While the *Airport Environs Plan* does not apply to the DM environs, its policies provide examples of appropriate zoning in this area. *Airport Environs Plan* policies prohibit any new or redeveloped noise sensitive land uses and prohibit development that would create a hazard to aircraft.

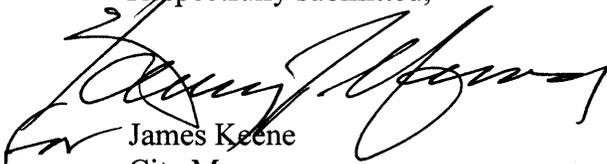
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Subregional and Area Plan. The *Rincon/Southeast Subregional Plan* states, “Land uses which obstruct aircraft navigation and pilots’ visibility, or present hazards to aircraft taking off or landing are prohibited within the Airport Hazard District (ADH)”. The *Arroyo Chico Area Plan* policies require that the City ensure compatibility of new development with existing and future operations of Davis-Monthan Air Force Base and encourage new development to be consistent with Air Installation Compatible Use Zone (AICUZ) guidelines when compatible with *Arroyo Chico Area Plan* general policies. The sub-goal included in the South Pantano Area Plan for Davis Monthan Air Force Base states, “Encourage compatible mixed land use development and protect existing developments adjacent to the Air Base as approved in the *General Plan*.” One sub-goal included in the *Esmond Station Area Plan* states, “Provide opportunities for industrial and park industrial development.” The supporting policies encourage industrial uses in the Davis-Monthan approach-departure paddle. A second subgoal within the *Esmond Station Area Plan* states, “Encourage compatible mixed land use development adjacent to the base as stated in the *General Plan*.”

Arizona Revised Statutes. The development of incompatible land uses in the vicinity of Davis Monthan Air Force Base constrains the military’s ability to perform current and future missions. These incompatible uses expose people to safety and high noise effects. In response to such issues, Title 28, Article 7, Airport Zoning & Regulation (ARS §28-8480, §28-8481 and §28-8482) mandate areas within high noise or accident potential zones be addressed in municipal general plans and require that land development within these areas be compatible with military operations. Section 28-8481 J states, “compliance ... shall be determined in accordance with the compatible land use plan in the Joint Land Use Study completed in February 2004.”

Conclusion – The proposed map and text amendments should be adopted based on (1) the recommendations and implementation strategies presented in the JLUS, (2) state statutory requirements and (3) adopted plan policies that support land use compatibility with DM operations.

Respectfully submitted,



James Keene
City Manager

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Department of Urban Planning & Design

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Attachments: Attachment A, Recommendation Letter from Planning Commission
Attachment B, Frequently Asked Questions
Attachment C, JLUS Implementation Strategies
Attachment D, Protected Development Right Plan Definitions
Attachment E, Responses to October JLUS Questions
Attachment F, AEZ Map
Attachment G, Noise Attenuation Development Standards
Ordinance (including strike-through)

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