

File No. 210914 Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date September 20, 2021

Board of Supervisors Meeting Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- DRAFT Grant of Avigation Easement
- Air Comm Reso No. 20-0187 100620
- PLN Gen Plan Ref 082720
- SFO CEQA 063021
- Air Comm Ltr 081921
- Referral FYI 091521
- _____
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Completed by: Erica Major Date September 16, 2021

Completed by: Erica Major Date _____

1 [Acceptance and Recording of Avigation Easement - SHAC Adrian Court Apartments LLC - 1
and 45 Adrian Court, Burlingame]

2

3 **Resolution authorizing the acceptance and recording of an avigation easement by the**
4 **City and County of San Francisco from SHAC Adrian Court Apartments LLC for the**
5 **development at 1 and 45 Adrian Court in Burlingame, California, at no cost to the City**
6 **and County of San Francisco; and affirming the Planning Department’s determination**
7 **under the California Environmental Quality Act.**

8

9 WHEREAS, SHAC Adrian Court Apartments LLC, a Delaware limited liability company
10 (“SHAC”), owns a 2.83-acre parcel located at 1 and 45 Adrian Court in Burlingame, California,
11 which it proposes to develop as a 265-unit, mixed-use residential community (the
12 “Development”); and

13 WHEREAS, The San Francisco International Airport (the “Airport”) is required by the
14 State of California Noise Standards for Airports (Title 21, California Code of Regulations) to
15 eliminate incompatible land uses within its noise impact area; and

16 WHEREAS, The Airport can eliminate incompatibility under Title 21 by acquiring
17 avigation easements; and

18 WHEREAS, The California Public Utilities Code provides for the adoption of airport
19 land use compatibility plans to safeguard the general welfare of the inhabitants within the
20 vicinity of airports and the public in general; and

21 WHEREAS, The City/County Association of Governments of San Mateo County
22 adopted the Comprehensive Airport Land Use Compatibility Plan for the Environs of San
23 Francisco International Airport (the “ALUCP”); and

24 WHEREAS, The ALUCP requires, as a condition of approving the Development, that
25 SHAC grant the City and County of San Francisco, at no cost to City and County of San

1 Francisco, an avigation easement, a copy of which is on file with the Clerk of the Board of
2 Supervisors in File No. 210914; and

3 WHEREAS, On October 6, 2020, the Airport Commission by Resolution No. 20-0187, a
4 copy of which is on file with the Clerk of the Board of Supervisors under File No. 210914 and
5 incorporated by reference, authorized the Airport to request Board of Supervisors approval to
6 accept and record the grant of avigation easement; and

7 WHEREAS, The Director of Planning, by letter dated August 27, 2020, which is on file
8 with the Board of Supervisors under File No. 210914 and incorporated by reference, found
9 that the acquisition of the avigation easement is consistent with the City's General Plan, and
10 with the eight priority policies of City Planning Code, Section 101.1; and

11 WHEREAS, The Planning Department has determined that the actions contemplated in
12 this Resolution comply with the California Environmental Quality Act (California Public
13 Resources Code Sections 21000 et seq.); said determination is on file with the Clerk of the
14 Board of Supervisors in File No. 210914 and is incorporated herein by reference; the Board
15 affirms this determination; now, therefore, be it

16 RESOLVED, That in accordance with the recommendations of the Airport Commission
17 and the Director of Property, the Board of Supervisors approves and authorizes the Director of
18 Property to accept the grant of avigation easement; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
20 Property to enter into any additions, amendments, or other modifications to the grant of
21 avigation easement that the Director of Property determines, in consultation with the Office of
22 the City Attorney, are in the best interest of the City, do not materially increase the obligations
23 or liabilities of the City, and are necessary and advisable to complete the transaction and
24 effectuate the purpose and intent of this Resolution, such determination to be conclusively
25

1 evidenced by the execution and delivery by the Director of Property of the grant of avigation
2 easement and any amendments; and, be it

3 FURTHER RESOLVED, That the Director of Property is authorized, in the name and
4 on behalf of the City and County, to accept the grant of avigation easement from SHAC and to
5 take any and all steps (including, but not limited to, the execution and delivery of any and all
6 certificates, agreements, notices, escrow instructions, closing documents, and other
7 instruments or documents) as the Director of Property deems necessary or appropriate in
8 order to accept the grant of avigation easement, or to otherwise effectuate the purpose and
9 intent of this Resolution, such determination to be conclusively evidenced by the execution
10 and delivery by the Director of Property of any such documents; and, be it

11 FURTHER RESOLVED, That within thirty (30) days of the grant of avigation easement
12 being fully executed by all parties, the Director of Property shall provide a copy of the grant of
13 avigation easement to the Clerk of the Board for inclusion in the official file.

14 RECOMMENDED:

15
16 /s/ _____
17 Ivar C. Satero
18 Airport Director

19 Andrico Penick

20 /s/ _____
21 Andrico Penick
22 Director of Property

23 n:\air\as2021\9690159\01519918.docx

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City and County of San Francisco
Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

GRANT OF AVIGATION EASEMENT

This Grant of Avigation Easement is executed and delivered as of this _____ day of _____, 20____, by SHAC ADRIAN COURT APARTMENTS LLC, a Delaware limited liability company (“GRANTOR”), and the City and County of San Francisco, a political subdivision of the State of California (“CITY” or “GRANTEE”), with reference to the following facts:

Recitals

A. GRANTOR is the owner of that certain property (“Real Property”), legally described in Exhibit “A,” attached hereto and incorporated herein by reference, the street address of which is: 1 and 45 Adrian Court, Burlingame, California.

B. CITY is the owner and operator of the San Francisco International Airport (SFO).

C. Pursuant to the relevant content in the Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the environs of SFO, as amended, as a condition of, and prior to, approval of a permit by the relevant land use authority (city or county) for the development or improvement of property within the 65 decibel (dB) Community Noise Equivalent Level (CNEL) boundary and higher as shown on the most recent quarterly noise contour map submitted to the State of California, Department of Transportation, Division of Aeronautics by SFO staff, in accordance with Section 5025 of Title 21 of the California Code of Regulations the grant by GRANTOR of a permanent non-exclusive easement for the purposes set forth in Section 1 below, and rights and servitudes pertaining thereto (the “Avigation Easement”) shall be required in favor of CITY. A copy of the most recent quarterly noise contour map referenced herein that illustrates the location of the GRANTOR’s Real Property is attached hereto as Exhibit “B.” The Avigation Easement shall be recorded in the chain of title in the County of San Mateo Assessor-Clerk-Recorder’s Office prior to issuance of the permit.

D. All relevant CNEL noise contour maps and grid data needed to identify the aircraft noise levels for all properties located within the 65 dB CNEL aircraft noise contour and higher, to determine the

application of this Avigation Easement as stated in Section 3.2 herein, are available from the www.flysfo.com website or from the Noise Abatement Office staff at San Francisco International Airport.

Grant of Avigation Easement

1. Grant. GRANTOR, individually and for the heirs, successors and assigns of GRANTOR, hereby grants, conveys and assigns to CITY and its successors, a perpetual and assignable Avigation Easement in and over the Real Property for the purposes described herein below.

1.1 Passage of Aircraft. The Avigation Easement shall include for the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, of any aircraft, of any and all kinds now or hereafter known, in, through, across or about any portion of the airspace above and within the vicinity of the Real Property, with such rights of use and passage by aircraft without restriction as to frequency, type of aircraft and proximity to the surface of the Real Property, so long as the exercise of such rights is not in violation of then applicable federal laws governing flight operations.

1.2 Noise and Other Incidental Effects. The Avigation Easement shall include the right to cause within, and to enter or penetrate into or transmit through, any improved or unimproved portion of Real Property, and within all airspace above Real Property, such noise, sounds, vibrations, air currents, illumination, electronic interference and aircraft engine exhaust and emissions, dust, discomfort or other environmental effects incident to aircraft operations, and any and all resulting interference with use and enjoyment, and any consequent reduction in market value, all due to the operation of aircraft to and from SFO upon GRANTOR's Real Property.

1.3 Interference with Air Navigation/Communications. In furtherance of this Avigation Easement, GRANTOR covenants that it will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Real Property to constitute an obstruction to air navigation, or to use or permit the use of Real Property in such a manner as to create electrical or electronic interference with aircraft communications systems, aircraft navigation equipment, or with Federal Aviation Administration, airline, or airport personnel communication with any aircraft.

2. Baseline. The 65 dB Community Noise Equivalent Level (CNEL) noise contour shown on the most recent quarterly noise map filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, shall be the basis for determining the baseline level for the GRANTOR's Real Property.

3. Waiver of Legal Actions and Exceptions. GRANTOR, together with its successors in interest and assigns, hereby waives its right to legal action against CITY, its successors or assigns, for monetary damages or other redress due to impacts, as described in Section 1.2 of the granted rights of easement, associated with aircraft operations in the air or on the ground at SFO, including future increases

in the volume or changes in location of said operations. However, this waiver shall not apply under the circumstances specified below.

3.1 For Property Located Outside the 65 dB CNEL Boundary. The waiver shall not be in effect for property located outside the 65 dB CNEL noise contour boundary as shown on the most recent quarterly noise map, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds 68 dB CNEL or higher, and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to be at or lower than 68 dB CNEL.

3.2 For Property Located Within the 65 dB CNEL Boundary and Higher. The waiver shall not be in effect for property located within the 65 dB CNEL noise contour boundary and higher, as shown on the most recent quarterly noise map, if three (3) of any four (4) quarterly noise report maps, as reported to the State of California, for any calendar year show that the noise level imposed on GRANTOR's Real Property exceeds the baseline CNEL level as stated in Section 2 by more than 3 dB CNEL (68 dB CNEL and higher), and the waiver shall remain not in effect until two (2) consecutive subsequent quarterly noise maps show the level of noise to have been no more than 3 dB CNEL greater than the baseline.

3.3. Exceptions. Any change in the noise level, as reported on a quarterly noise map for SFO filed with the State of California, Department of Transportation, Division of Aeronautics, in accordance with Section 5025 of Title 21 of the California Code of Regulations, which reflects a change in noise level which results from the temporary increased use of certain runways, due to construction or repair of other runways, or due to any other cause or causes beyond the control of CITY (e.g., weather or wind conditions, but not flight pattern shifts authorized by the Federal Aviation Administration) shall not be used to compute the noise level imposed on GRANTOR's Real Property for the purposes of this Section 3.

4. Negligent or Unlawful Acts Excepted. This grant of Avigation Easement shall not operate to deprive the GRANTOR, its successors or assigns, of any rights which it may from time to time have against any air carrier or private operator for negligent and/or unlawful operation of aircraft to, from, or in or about SFO, nor does this Avigation Easement include or authorize aircraft landing, explosion, crash, falling objects causing direct physical injury to persons or direct physical damage to property.

5. Easement Benefit. The Avigation Easement shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the San Francisco International Airport, and shall be deemed in gross, being conveyed to CITY for the benefit of the CITY and any and all members of the general public who may use said easement, taking off from, landing upon, or operating such aircraft in or about the said SFO, or otherwise flying through the airspace above or in the vicinity of Real Property.

6. Covenants Run with the Land. These covenants and agreements run with the land (Real Property) in perpetuity and any grantee, heir, agent, successor, assign of the GRANTOR who acquires any estate or interest in or right to use Real Property shall be bound by this Avigation Easement for the benefit of CITY, and its agents, successors and assigns.

7. Termination. This Avigation Easement shall terminate and have no further force and effect if the project for which the easement was granted is not built and the permit and any permit extensions authorizing the construction of the use have expired or been revoked. Upon notification by the city or county granting the permit, CITY shall record a Notice of Termination in the chain of title in the County of San Mateo Recorder's Office.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this ___ day of _____, 2020.


GRANTOR


SHAC ADRIAN COURT APARTMENTS LLC,
a Delaware limited liability company

By: SHAC Adrian Court Apartments Venture LLC,
a Delaware limited liability company, its manager

By: SHAC Adrian Court Apartments Manager LLC,
a Delaware limited liability company, its manager

By: SummerHill Apartment Communities,
a California corporation, its managing member

By: 
Name: MONICA WONG
Title: CONTROLLER

By: 
Name: Joshua Taylor
Title: Assistant Secretary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of ~~San Mateo~~ Contra Costa)

On July 2, 2020, before me, Veronica Judd, a Notary Public, personally appeared Monica Wong and Joshua Taylor, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Veronica Judd



CERTIFICATE OF ACCEPTANCE

As required under Government Code Section 27281, this is to certify that the interest in real property conveyed by the Grant of Avigation Easement dated _____, from the SHAC ADRIAN COURT APARTMENTS LLC, a Delaware limited liability company, to the City and County of San Francisco, a municipal corporation ("Grantee"), is hereby accepted by order of its Board of Supervisors' Resolution No. _____, adopted on _____, and Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Penick
Director of Property

APPROVED LEGAL DESCRIPTION

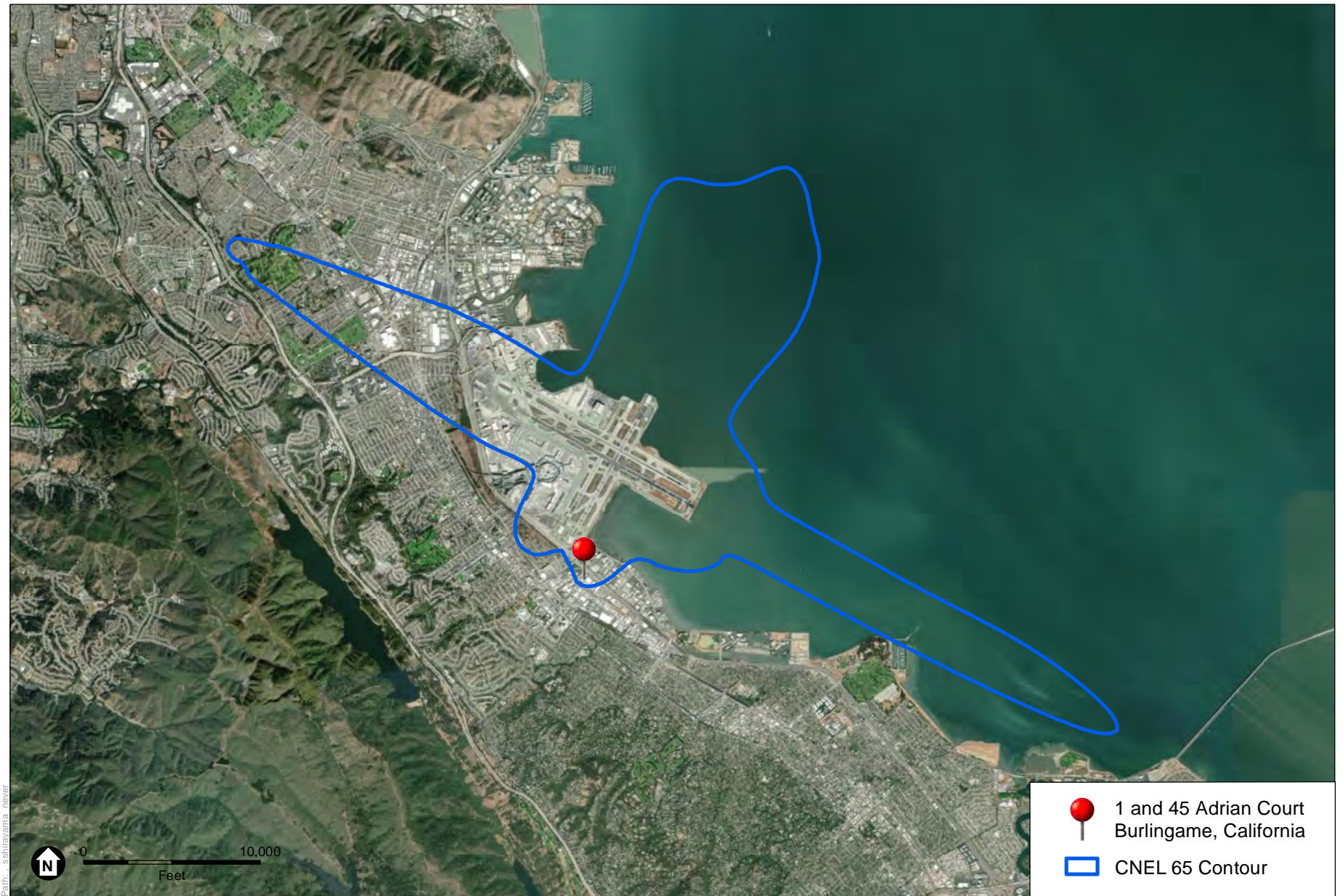
By: _____
James M. Ryan
Acting City and County Surveyor

Attachment: Exhibit "A" – Legal Description of Real Property
Exhibit "B" – Quarterly Noise Map Depicting Location of Real Property

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

ALL OF PARCEL A, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "PARCEL MAP NO. 18-08", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA, ON NOVEMBER 19, 2020 IN VOLUME 85 OF PARCEL MAPS, AT PAGES 68-69.

Exhibit “B” – Quarterly Noise Map Depicting Location of Real Property



SOURCE: ESRI Aerial

SFO 2019 Fourth Quarter CNEL Contour



MEMORANDUM

October 6, 2020

TO: Airport Commission
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Richard J. Guggenhime
Hon. Everett A. Hewlett, Jr.
Hon. Malcolm Yeung

FROM: Airport Director

SUBJECT: Authorization to Accept and Record Avigation Easements

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE AIRPORT DIRECTOR TO ACQUIRE AVIGATION EASEMENTS AS PART OF THE 2016-2019 PHASE OF THE NOISE INSULATION PROGRAM AND FOR A DEVELOPMENT PROJECT IN BURLINGAME, AND TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL TO ACCEPT AND RECORD THE EASEMENTS.

Executive Summary

Staff seeks authorization to acquire avigation easements from the property owners located in the vicinity of the Airport, in areas affected by aircraft noise. The easements are acquired in exchange for noise insulation of properties as part of the 2016-2019 Phase of the Airport's Noise Insulation Program (NIP). Additionally, the developer of a mixed-use development project in Burlingame is granting the Airport an avigation easement, as required by the Airport Land Use Compatibility Plan. The easements provide protection to the Airport in that property owners will grant the City and County of San Francisco the right to permit the flight of aircraft through the airspace above and in the vicinity of the properties, and to impose noise, sound, vibration and other environmental effects incident to the operation of aircraft. Staff also seeks authorization to request the Board of Supervisors' approval to accept and record the easements.

Background

The State of California Noise Standard for Airports (Title 21, California Code of Regulations) requires airports to eliminate incompatible land uses within the "Noise Impact Boundary" (this is the contour of the area around the airport affected by aircraft noise). Incompatible land uses include residences, schools, hospitals and places of worship. The Airport can eliminate the incompatibility by insulating the properties to meet an interior noise standard of 45 decibels and/or obtaining avigation easements.

THIS PRINT COVERS CALENDAR ITEM NO. 9

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED MAYOR LARRY MAZZOLA PRESIDENT ELEANOR JOHNS VICE PRESIDENT RICHARD J. GUGGENHIME EVERETT A. HEWLETT, JR. MALCOLM YEUNG IVAR C. SATERO AIRPORT DIRECTOR

Since the 1980s, the Airport has worked with the surrounding communities and the County of San Mateo to eliminate incompatible land uses and, through these efforts, the Airport has met all California Code of Regulations requirements. This has involved insulation of more than 15,200 properties and acquisition of more than 12,600 avigation easements.

During previous phases of the NIP, some property owners chose not to participate in the program or failed to respond to invitations to participate and, as a result, the Airport did not acquire easements for those properties. Subsequently, because some of these properties had been sold to new owners who wanted to participate in the NIP, the Airport expanded the Program to invite owners of such properties if located inside the Noise Impact Boundary. The 2016-2019 Phase of the Program included insulation of nine of these dwellings in exchange for perpetual avigation easements.

Further, a developer proposes building a 265-unit mixed-use project at 1 Adrian Court and 45 Adrian Court in Burlingame, California. Because the project is partially located inside of the Noise Impact Boundary, the San Mateo County Airport Land Use Commission conditionally approved the proposed development, pending the property owner granting an avigation easement to the City and County of San Francisco, as required under Policy NP-3 (Grant of Avigation Easement) of the Airport Land Use Compatibility Plan.

A list of the ten properties for which avigation easements have been collected is attached as Attachment 1 to the Resolution.

Acceptance and Recordation of Easements

With Commission authorization, Airport staff can submit the easements signed by the property owners to the Real Estate Division. Subsequently, the Real Estate Division can accept and record the easements, following a General Plan conformity determination by the Department of City Planning and approval by the Board of Supervisors.

Recommendation

I recommend the Commission authorize the Director to: (1) acquire avigation easements for the properties identified in Attachment 1 to the Resolution, and (2) request the Board of Supervisors' approval to accept and record the easements.



Ivar C. Satero
Airport Director

Prepared by: Geoffrey W. Neumayr
Chief Development Officer
Planning, Design & Construction

Attachments

**ATTACHMENT 1 - LIST OF PROPERTIES FOR WHICH
AVIGATION EASEMENTS HAVE BEEN COLLECTED**

APN No.	Property Address	City	Comments
91691270	322 Barbara Ln	Daly City	Easement granted in exchange for noise insulation improvements
24176160	3 Corte Comoda	Millbrae	Easement granted in exchange for noise insulation improvements
20206080	545 2nd Ave	San Bruno	Easement granted in exchange for noise insulation improvements
20204130	519 4th Ave	San Bruno	Easement granted in exchange for noise insulation improvements
20168230	760 4th Ave	San Bruno	Easement granted in exchange for noise insulation improvements
20177130	525 5th Ave	San Bruno	Easement granted in exchange for noise insulation improvements
20104230	940 Green Ave	San Bruno	Easement granted in exchange for noise insulation improvements
14275060	1083 Montgomery Ave	San Bruno	Easement granted in exchange for noise insulation improvements
14267260	77 Atlantic Ave	San Bruno	Easement granted in exchange for noise insulation improvements
025169350	1 Adrian Court and 45 Adrian Court	Burlingame	Easement granted per Policy NP-3 of the Airport Land Use Compatibility Plan

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 20-0187

AUTHORIZATION TO ACQUIRE AVIGATION EASEMENTS AS PART OF THE 2016-2019 PHASE OF THE NOISE INSULATION PROGRAM AND FOR A DEVELOPMENT PROJECT IN BURLINGAME, AND TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL TO ACCEPT AND RECORD THE EASEMENTS

- WHEREAS, as part of the Airport's Noise Insulation Program (NIP), between the 1980s and 2000s the Airport obtained approximately 12,600 avigation easements, insulated approximately 15,200 eligible structures, and through this work eliminated all incompatible land uses, thereby meeting the State of California Noise Standard for Airports (Title 21 of the California Code of Regulations); and
- WHEREAS, since 2010, the Airport has implemented additional phases of the NIP to insulate properties that were not treated in earlier phases of the NIP, and to acquire avigation easements in exchange for insulation; and
- WHEREAS, the recently completed 2016-2019 Phase of the NIP included insulation of nine dwellings in exchange for perpetual avigation easements granted by the homeowners; and
- WHEREAS, the developer of a mixed-use project in Burlingame, California is granting a perpetual avigation easement to the City and County of San Francisco, as required under Policy NP-3 (Grant of Avigation Easement) of the Airport Land Use Compatibility Plan; and
- WHEREAS, the Real Estate Division can accept and record the easements following a General Plan conformity determination by the Department of City Planning and approval by the Board of Supervisors; now, therefore, be it
- RESOLVED, that the Airport Commission hereby authorizes the Director to acquire Avigation Easements for the properties listed in Attachment 1 to this Resolution; and, be it further
- RESOLVED, that the Airport Commission hereby authorizes the Director to request the Board of Supervisors' approval to accept and record the easements.

I hereby certify that the foregoing resolution was adopted by the Airport Commission
at its meeting of _____

OCT 6 2020


Secretary



MEMORANDUM

October 6, 2020

TO: Airport Commission
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Richard J. Guggenhime
Hon. Everett A. Hewlett, Jr.
Hon. Malcolm Yeung

20-0187

OCT 6 2020

FROM: Airport Director

SUBJECT: Authorization to Accept and Record Avigation Easements

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE AIRPORT DIRECTOR TO ACQUIRE AVIGATION EASEMENTS AS PART OF THE 2016-2019 PHASE OF THE NOISE INSULATION PROGRAM AND FOR A DEVELOPMENT PROJECT IN BURLINGAME, AND TO REQUEST THE BOARD OF SUPERVISORS' APPROVAL TO ACCEPT AND RECORD THE EASEMENTS.

Executive Summary

Staff seeks authorization to acquire avigation easements from the property owners located in the vicinity of the Airport, in areas affected by aircraft noise. The easements are acquired in exchange for noise insulation of properties as part of the 2016-2019 Phase of the Airport's Noise Insulation Program (NIP). Additionally, the developer of a mixed-use development project in Burlingame is granting the Airport an avigation easement, as required by the Airport Land Use Compatibility Plan. The easements provide protection to the Airport in that property owners will grant the City and County of San Francisco the right to permit the flight of aircraft through the airspace above and in the vicinity of the properties, and to impose noise, sound, vibration and other environmental effects incident to the operation of aircraft. Staff also seeks authorization to request the Board of Supervisors' approval to accept and record the easements.

Background

The State of California Noise Standard for Airports (Title 21, California Code of Regulations) requires airports to eliminate incompatible land uses within the "Noise Impact Boundary" (this is the contour of the area around the airport affected by aircraft noise). Incompatible land uses include residences, schools, hospitals and places of worship. The Airport can eliminate the incompatibility by insulating the properties to meet an interior noise standard of 45 decibels and/or obtaining avigation easements.

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Since the 1980s, the Airport has worked with the surrounding communities and the County of San Mateo to eliminate incompatible land uses and, through these efforts, the Airport has met all California Code of Regulations requirements. This has involved insulation of more than 15,200 properties and acquisition of more than 12,600 avigation easements.

During previous phases of the NIP, some property owners chose not to participate in the program or failed to respond to invitations to participate and, as a result, the Airport did not acquire easements for those properties. Subsequently, because some of these properties had been sold to new owners who wanted to participate in the NIP, the Airport expanded the Program to invite owners of such properties if located inside the Noise Impact Boundary. The 2016-2019 Phase of the Program included insulation of nine of these dwellings in exchange for perpetual avigation easements.

Further, a developer proposes building a 265-unit mixed-use project at 1 Adrian Court and 45 Adrian Court in Burlingame, California. Because the project is partially located inside of the Noise Impact Boundary, the San Mateo County Airport Land Use Commission conditionally approved the proposed development, pending the property owner granting an avigation easement to the City and County of San Francisco, as required under Policy NP-3 (Grant of Avigation Easement) of the Airport Land Use Compatibility Plan.

A list of the ten properties for which avigation easements have been collected is attached as Attachment 1 to the Resolution.

Acceptance and Recordation of Easements

With Commission authorization, Airport staff can submit the easements signed by the property owners to the Real Estate Division. Subsequently, the Real Estate Division can accept and record the easements, following a General Plan conformity determination by the Department of City Planning and approval by the Board of Supervisors.

Recommendation

I recommend the Commission authorize the Director to: (1) acquire avigation easements for the properties identified in Attachment 1 to the Resolution, and (2) request the Board of Supervisors' approval to accept and record the easements.



Ivar C. Satero
Airport Director

Prepared by: Geoffrey W. Neumayr
Chief Development Officer
Planning, Design & Construction

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14267260	77 Atlantic Ave	San Bruno	Easement granted in exchange for noise insulation improvements
025169350	1 Adrian Court and 45 Adrian Court	Burlingame	Easement granted per Policy NP-3 of the Airport Land Use Compatibility Plan



GENERAL PLAN REFERRAL

August 27, 2020

Case No.: 2020-007379GPR
Block/Lot No.: N/A – 1 and 45 Adrian Court Burlingame, CA 94010
Project Sponsor: SHAC Adrian Court Apartments LLC
Applicant: Nile Ledbetter – (650) 821-7742
nile.ledbetter@flysfo.com
San Francisco International Airport
P.O. Box 8097
San Francisco, CA 94128
Staff Contact: Danielle Ngo – (628) 652-7591
danielle.ngo@sfgov.org

Recommended By: Rich Hillis
Rich Hillis, Director of Planning

Recommendation: Finding the project, on balance, is **in conformity** with the General Plan

Project Description

The property owner, SHAC Adrian Court Apartments LLC, proposes building a 265-unit mixed-use project at 1 Adrian Court and 45 Adrian Court in Burlingame, CA, in San Mateo County. This proposed project is partially located inside the 65-decibel Community Noise Equivalent Level (CNEL) contour for San Francisco International Airport (SFO). Subsequently, the property owner is proposing to grant an avigation easement to the City and County of San Francisco (CCSF), as the proprietor of SFO. This proposed avigation easement is a requirement of the Airport Land Use Compatibility Plan (ALUCP) for SFO, Policy NP-3: Grant of Avigation Easement.

Under the avigation easement, the property owner would grant a perpetual easement to CCSF, allowing for the passage of aircraft and the right to cause noise and other incidental effects of aircraft operations to and from SFO. The property owner would further waive its right to legal action against CCSF for these impacts. The covenants and agreements in the avigation easement would run with the land in perpetuity and bind any grantee, heir, agent, successor, or assign of the property owner who acquires any estate or interest in or right to use property, for the benefit of CCSF, and its agents, successors, and assigns.

The ALUCP addresses issues related to compatibility between airport operations and proposed new land use development, considering noise impacts, safety of persons on the ground and in flight, height restrictions/airspace protection, and overflight notification. The development plans comply with ALUCP to make the proposed project compatible with aircraft noise in accordance with California Code of Regulations, Title 21, Section 5014. This includes insulating all habitable rooms to an interior CNEL of 45 decibels or lower.

The San Mateo County Airport Land Use Commission conditionally approved the proposed project pending this avigation easement, per Policy NP-3 of ALUCP. The policy reads, “Thus, [the San Mateo County Airport Land Use Commission] shall condition its approval of proposed development upon the owner of the subject property granting an avigation easement to the City and County of San Francisco, as the proprietor of SFO”.

Since the proposed project is within the 65 decibel CNEL, SFO requests this General Plan Referral to be granted the avigation easements from the project sponsor.

Environmental Review

The City of Burlingame determined that the proposed development is categorically exempt under CEQA Guidelines Section 15332 on 9/25/2019. The proposed avigation easement would not be defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

General Plan Compliance and Basis for Recommendation

As described below, the proposed avigation easement to CCSF is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 10

MINIMIZE THE IMPACT OF NOISE ON AFFECTED AREAS.

Policy 10.2

Promote the incorporation of noise insulation materials in new construction.

The project will provide noise insulation and acoustic treatments per ALUCP to reduce the impacts of airport operations on indoor noise levels, to create an interior CNEL of 45 decibels or lower.

OBJECTIVE 11

PROMOTE LAND USES THAT ARE COMPATIBLE WITH VARIOUS TRANSPORTATION NOISE LEVELS.

Policy 11.1

Discourage new uses in areas in which the noise level exceeds the noise compatibility guidelines for that use.

Policy 11.2

Consider the relocation to more appropriate areas of those land uses which need more quiet and cannot be effectively insulated from noise in their present location, as well as those land uses which are noisy and are presently in noise-sensitive areas.

The proposed project complies with ALUCP, which addresses issues related to compatibility between airport operations and proposed new land use developments. The ALUCP considers noise impacts, safety of persons on the ground and in flight, height restrictions/airspace protection, and overflight notification. The proposed project's development plans mitigate against noise in accordance with California Code of Regulations, Title 21, Section 5014.

TRANSPORTATION ELEMENT**OBJECTIVE 2**

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.2

Reduce pollution, noise and energy consumption.

The proposed project complies with ALUCP to mitigate against noise pollution from SFO operations. It will provide noise insulation and acoustic treatments to reduce noise intrusion and improve the quality of life of affected residents.

OBJECTIVE 5

SUPPORT AND ENHANCE THE ROLE OF SAN FRANCISCO AS A MAJOR DESTINATION AND DEPARTURE POINT FOR TRAVELERS MAKING INTERSTATE, NATIONAL AND INTERNATIONAL TRIPS

Policy 5.1

Support and accommodate the expansion of San Francisco International Airport, while balancing this expansion with the protection of the quality of life in the communities that surround the Airport.

The proposed aviation easements would allow SFO to conduct passage of aircraft and the right to cause noise and other incidental effects of aircraft operations to and from SFO. This allows SFO to continue to serve its function as a travel hub between the City and other areas.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The Project would not have a negative effect on existing neighborhood-serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail, in either San Francisco County or San Mateo County.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project would not have a negative effect on housing or neighborhood character in San Francisco County. However, it will allow for the development of additional housing units in San Mateo County.

3. That the City's supply of affordable housing be preserved and enhanced;

The Project would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The Project would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking in San Francisco County. The traffic impacts of the proposed development in San Mateo County will be or have been evaluated by San Mateo County.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The Project would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired for San Francisco County.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The Project would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The Project would not have an adverse effect on the City's Landmarks and historic buildings.

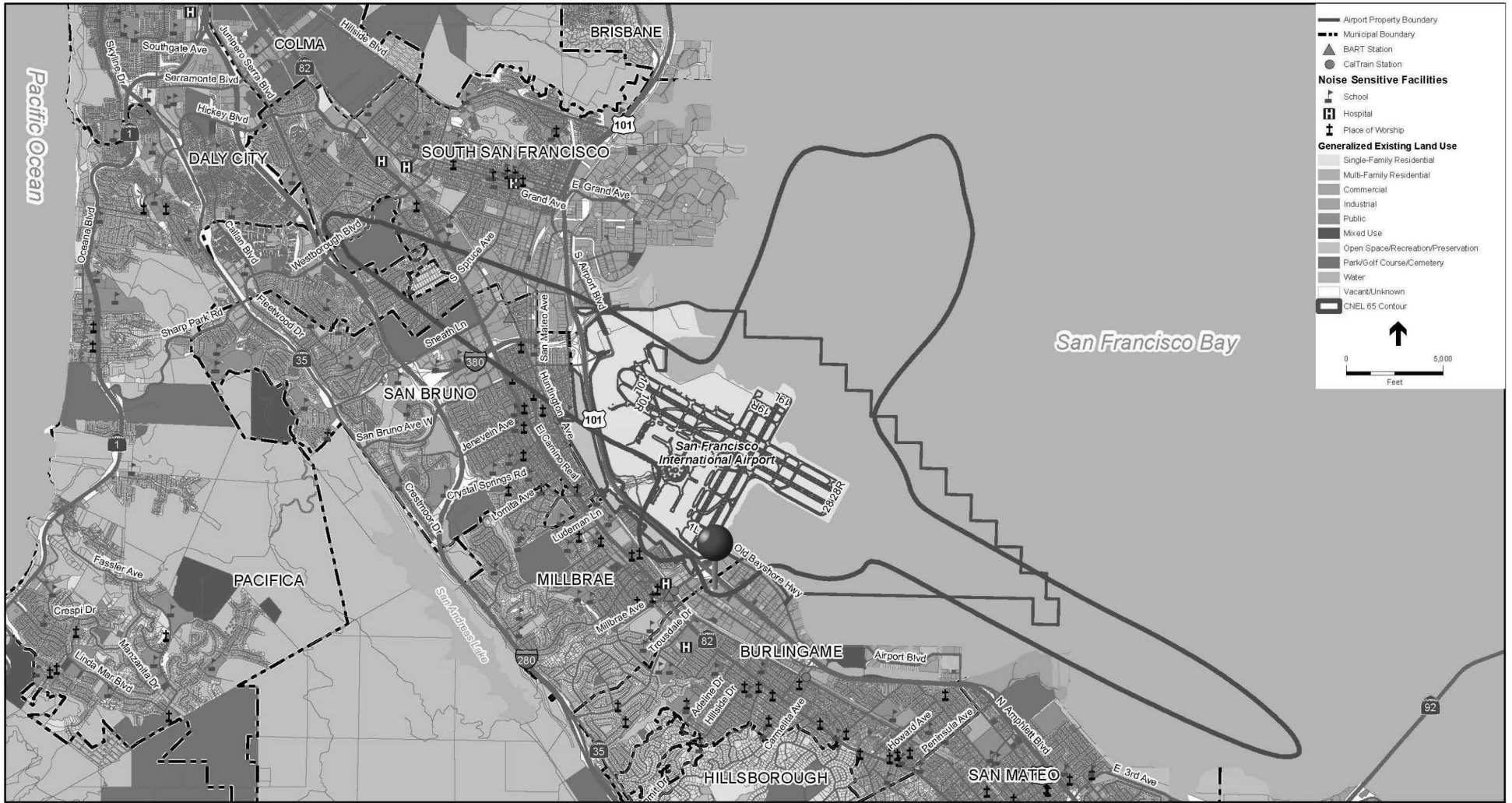
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The Project would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Recommendation: Finding the project, on balance, is in conformity with the General Plan



Attachments:

Map of the Project Site with the SFO 2019 CNEL 65 db Noise Contour



SOURCE: ESRI, 2014; San Mateo County Planning and Building Department; 2014; ESA, 2018 and 2019

SFO 2019 Fourth Quarter CNEL Contour

	1 and 45 Adrian Court Burlingame, California
	CNEL 65 Contour



San Francisco International Airport

June 30, 2021

VIA EMAIL ONLY

Don Lewis
San Francisco Planning Department
Environmental Planning Division
49 South Van Ness Avenue, Suite 1400
San Francisco, California 94103

Subject: *Not a Project Request: Acceptance and Recording of Avigation Easements, Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the Environs of San Francisco International Airport*

The City and County of San Francisco, by and through the San Francisco Airport Commission, proposes to continue to adhere to Title 21 of the California Code of Regulations and eliminate new incompatible land uses within the noise impact area of the San Francisco International Airport (SFO or the Airport) by acquiring avigation easements.

The California Public Utilities Code outlines the statutory requirements for designated airport land use commissions to prepare an Airport Land Use Compatibility Plan (ALUCP). The City/County Association of Governments of San Mateo County (C/CAG) is the designated airport land use commission for SFO. In 2011, C/CAG prepared and adopted the *Comprehensive Airport Land Use Compatibility Plan (ALUCP) for the Environs of San Francisco International Airport* with policies to be adopted by C/CAG members to ensure members' general plans and applicable specific plans are kept consistent with the ALUCP (California Government Code Section 65302.3). As a condition of approval of new noise-sensitive residential developments (within the Community Noise Equivalent Level 65-70 A-weighted decibel contour), the SFO ALUCP requires the property owners grant avigation easements to the City and County of San Francisco at no cost.

Airport staff seeks the San Francisco Planning Department, Environmental Planning Division's concurrence that the acceptance and recording of an avigation easement by the City and County of San Francisco is defined as not a project under CEQA Guidelines Sections 15378 and 15060 (c)(2). The recordation of an easement is an organizational or administrative activity of the local government that would not result in a direct or indirect physical change to the environment.

* * *

Please contact me with any questions or concerns at (650) 821-7844 or audrey.park@flysfso.com.

Sincerely,

DocuSigned by:

Audrey Park

6D00BEC39E3B428...

6/30/2021

Audrey Park

San Francisco International Airport
Planning and Environmental Affairs

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

Don Lewis
7/13/2021

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
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VICE PRESIDENT

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IVAR C. SATERO
AIRPORT DIRECTOR



San Francisco International Airport

August 19, 2021

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102-4689

Subject: Board of Supervisors’ Approval to Accept and Record an Avigation Easement in Favor of the City and County of San Francisco at 1 and 45 Adrian Court in Burlingame, California, as Provided for in the Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport

Dear Ms. Calvillo:

The San Francisco International Airport (the “Airport”) requests the Board of Supervisors’ approval to accept and record an avigation easement in favor of the City and County of San Francisco (the “City”) at 1 Adrian Court and 45 Adrian Court in Burlingame, California. The property owner of these sites has proposed building a 265-unit, mixed-use project. Because the project is partially located inside of the Noise Impact Boundary for the Airport, the San Mateo County Airport Land Use Commission conditionally approved the proposed development, pending the property owner granting an avigation easement to the City at no cost, as required under Policy NP-3 (Grant of Avigation Easement) of the *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport*. The avigation easement would grant the City the right to permit the flight of aircraft through the airspace above and in the vicinity of the properties and to impose noise, sound, vibration, and other environmental effects incident to the operation of aircraft.

The following is a list of accompanying documents:

- Board of Supervisors Resolution (one original and one copy);
- Airport Commission Resolution No. 20-0187;
- Memorandum accompanying Airport Commission Resolution No. 20-0187;
- General Plan Referral for 1 and 45 Adrian Court (2020-007379GPR);
- Avigation Easement for 1 and 45 Adrian Court; and
- San Francisco Planning Department determination of “Not a Project” under CEQA.

The following person may be contacted regarding this matter:

Nupur Sinha, Airport Planning Director
(650) 821-9464
nupur.sinha@flysfo.com

Very truly yours,

Kantrice Ogletree /S/

Kantrice Ogletree
Commission Secretary

Enclosures

cc: Dyanna Quizon, SFO Governmental Affairs

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Andrico Penick, Director, Real Estate Division

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: September 15, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by the Airport Commission on September 7, 2021:

File No. 210914

Resolution authorizing the acceptance and recording of an avigation easement by the City and County of San Francisco from SHAC Adrian Court Apartments LLC for the development at 1 and 45 Adrian Court in Burlingame, California, at no cost to the City and County of San Francisco; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.