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MONTEREY COUNTY

AIRPORT LAND USE COMMISSION



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SENT VIA E-MAIL
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ATTN:
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Subject: Notice of Intent to Overrule the Monterey County Airport Land Use Commission Resolution No. 25-003 – Montessori Community School

Dear City Council of the City of Monterey,

The purpose of the State Aeronautics Act is to protect the public health, safety and welfare “by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas surrounding public airports to the extent that these areas are not already devoted to incompatible uses.” (Pub. Util. Code §21670(a)(2).) The Monterey Regional Airport Land Use Compatibility Plan (ALUCP) implements these purposes. Specifically, the ALUCP seeks to protect the public from the adverse effects of airport noise, to ensure that people and facilities are not concentrated in areas susceptible to high risk of aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace.

On February 25, 2019, the Monterey County Airport Land Use Commission (ALUC) adopted a new Airport Land Use Compatibility Plan (ALUCP) for the Monterey Regional Airport. On March 8, 2019, ALUC staff informed your office (letter attached) of the adoption of the ALUP for the Monterey Regional Airport. Pursuant to state law (Government Code Section 65302.3), local jurisdictions and districts had 180 calendar days to amend their general plans, specific plans, community plans, and zoning ordinances, as necessary, to be consistent with the ALUCP or take the steps necessary to overrule the ALUC. Until ALUC staff receive the requested documentation, and pursuant to Public Utilities Code Section 21676.5, local agencies shall submit all proposed land use regulations and permit applications within the Airport Influence Area to the ALUC for determination of consistency with the ALUCP. The City of Monterey has yet to adhere to this requirement.

Accordingly, on June 30, 2025, the City of Monterey submitted an application (ALUC File No. REF250022) to ALUC staff requesting consideration of a proposed project to convert an existing 11,177 square foot commercial office building into a new Montessori Community School. The subject property is located at 2400 Garden Road, Monterey (APN: 013-322-008-000). The Montessori Community School provides infant and toddler daycare and educational programs for children up to 6 years old. The proposed project included the demolition and reconstruction of approximately 8,136 square feet of the interior portions of the upper floor area of the existing office building to accommodate new classroom spaces and support areas. Additional site improvements included construction of a new waste enclosure, reconfiguration of the parking lot to meet current standards and provide the required number of parking spaces, and modifications to existing landscaped areas. The project also proposed new exterior playground areas to support outdoor activities for the daycare/school.

On July 28, 2025, the County of Monterey Airport Land Use Commission, at a duly noticed public hearing, adopted Resolution No. 25-003 (**Attachment 1**), finding the City of Monterey's application to convert the building into a daycare/school inconsistent with the 2019 Airport Land Use Compatibility Plan (ALUCP) for Monterey Regional Airport. Resolution No. 25-003 specifically found:

1. *“The subject property is located approximately 1,395 feet south of Monterey Regional Airport runway 10R-28L...and is located in an area that may experience multiple arrival and departure accidents”;*
2. *“As set out in California Public Utilities Code section 21670, the ALUC is created ‘to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.’”;*
3. *As proposed, the project would introduce vulnerable occupants into an area subject to higher aircraft-related hazards; therefore, creating a potential public safety concern”;* and
4. *“...The proposed use is not compatible with 2019 ALUCP as it introduces a use that would be exposed to aircraft related noise and potential accidents, and traffic associated with operation of MRY. Accordingly, the ALUC finds that establishment, maintenance, and operation of the project will the circumstances of this particular case be detrimental to the health, safety, comfort, and general welfare of persons occupied by the project site, and be potentially detrimental or injurious to the project’s occupants.”*

The ALUC is in receipt of the City's Notice of Intent to Overrule the ALUC's decision regarding the Montessori Community School (City Council Resolution No. 26-008). The City's draft overrule findings argue that the introduction of the proposed use at the project site is consistent with Public Utilities Code section 21670, including that section's intent to protect public health,

safety, and welfare through reasonable minimization of exposure to airport-related hazards. The ALUC disagrees with the City's draft findings to overrule the ALUC's decision and does not find that adequate justification has been presented to demonstrate consistency with Public Utilities Code section 21670. This is more fully explained below.

1. City Council Resolution No. 26-008 asserts that the proposed project protects general public welfare because it is located parallel to the runway, rather than at the end of the runway. While the City correctly observes that daycare and school uses are not prohibited uses in Safety Zone 7, it inaccurately characterizes the ALUCP's vulnerable occupants restriction as applying only to such land uses within 6,000 feet of the end of a runway. In fact, the policy applies to proposed uses within 6,000 feet of the side of a runway and 10,000 feet of the end of a runway. The subject property is approximately 1,395 feet from the side of Runway 10R-28L. Accordingly, it lies well within the 6,000-foot runway-side influence area and is subject to the ALUCP's vulnerable occupant restriction. The 6,000 ft. runway-side standard exists because aircraft incidents, while statistically infrequent, are not limited exclusively to runway ends (e.g., runway excursions, loss of control events, aborted takeoffs, and other aviation-related hazards that may occur along the length of the runway). Per Exhibit D2 of the ALUCP, and based on data from airports around the U.S, the subject property is located in an area that may experience multiple arrival and departure accidents. Simply put, the proposed site's location being parallel to the runway rather than at the end of the runway, by itself, does not mitigate the potential risk to the public of a land use in MRY's Airport Influence Area. In addition, the proposed use is directly adjacent to Safety Zone 5, which prohibits daycares and school facilities.
2. City Council Resolution No. 26-008 states that the ALUCP requires alternative sites to be considered before allowing a use involving vulnerable occupants within 6,000 feet of the runway. While alternatives are worth considering, the ALUCP lacks this requirement. Instead, the California Airport Land Use Planning Handbook ("CALUPH") states that in cases where such uses should be avoided, they may be allowed only if a site outside the zone would not serve the intended function. However, this statement is advisory, not mandatory. The CALUPH is intended as guidance for when the ALUCP is silent, not to counter or supplement ALUCP requirements and policies. The ALUCP is clear in its discouragement of such uses near the sides and ends of the runway. Regardless, the City's claim that "substantial evidence" shows that other sites were reasonably considered but excluded for the proposed use is conclusory; the City does not provide such evidence. Further, the relevant geography for analysis is not Safety Zone 7 in its entirety. Safety Zone 7 encompasses a large portion of the City. The ALUCP's heightened safety concern applies specifically to the 6,000-foot runway-side and 10,000-foot runway-end areas. A meaningful alternative site evaluation would focus on locations outside those defined proximity areas. To the best of staff's knowledge, no such evaluation has been completed. General assertions regarding market constraints or operational preferences do not substitute for a documented site selection analysis showing that no feasible alternatives exist beyond the strong discouragement area. Although economic and operational considerations may influence local planning decisions, the statutory mandate under Public Utilities Code section 21670 is hazard

minimization. Market feasibility considerations, while relevant, cannot override health and safety considerations, which are the primary considerations underlying both the ALUCP and the law that underlies it.

3. City Council Resolution No. 26-008 notes that Safety Zone 7 is already substantially developed with urban, institutional, and community-serving uses, including uses involving children and other potentially vulnerable populations. While accurate, this observation overlooks that the purpose of the ALUCPS is to guide future land use decisions to avoid incremental increases in incompatible exposure. The presence of existing development does not eliminate the obligation to evaluate whether new or intensified uses further concentrate vulnerable populations in proximity to airport operations.
4. City Council, through Resolution No. 26-008, asserts that the public welfare benefits of expanding licensed childcare capacity outweigh generalized and non-site-specific risk considerations. The need for childcare services is acknowledged; it is an important community objective. However, Public Utilities Code section 21670 directs ALUCs to protect public health, safety, and welfare, specifically by minimizing exposure to airport-related hazards. The statute does not establish a balancing test between broader social benefits and safety compatibility standards. Rather, it establishes hazard minimization as the governing objective for land use planning in airport influence areas. Adherence to the ALUCP's strong discouragement standard here reflects a policy judgment that such exposure should be avoided where practicable.
5. City Council Resolution No. 26-008 references the prior use of the property as a church as support for compatibility, noting that the site previously accommodated gatherings that may have included vulnerable individuals. However, the comparison is not equivalent to the proposed use in either frequency, duration, or concentration of vulnerable occupants. The prior church use was episodic and event-based, and has since ceased. Peak attendance likely occurred on Sundays or religious holidays. Occupancy during weekday hours would have been substantially lower or nonexistent. By contrast, the proposed Montessori Community School would operate five days per week, during daytime hours, with approximately 104 children present daily. This constitutes a continuous and predictable concentration of vulnerable occupants within close proximity to an active runway. The existence of a prior use does not establish that a proposed intensified use would be compatible under current safety standards or justify such action.
6. City Council, through Resolution No. 26-008, contends that the project's consistency with adopted zoning and General Plan policies supports a finding that the project is consistent with the purposes of Public Utilities Code section 21670. Government Code section 65302.3 requires affected jurisdictions to submit their General Plan and zoning ordinances to the ALUC for review and determination of consistency with an adopted ALUCP. Since the adoption of the 2019 MRY ALUCP (June 19, 2019), the City has not submitted its General Plan and zoning ordinance for a formal ALUC consistency determination. As a result, the ALUC has not determined whether the City's regulatory framework aligns with the safety standards of the 2019 ALUCP. Accordingly, reliance on

local policy consistency does not independently establish consistency with Public Utilities Code section 21670. The statutory purposes of Public Utility Code 21670 are implemented through the ALUCP, which ensures that future land use development (or changes in use) in the area surrounding MRY is compatible with airport operations and protects public health, safety, and welfare by minimizing noise and safety hazards. Local consistency, absent an ALUC consistency determination under Government Code section 65302.3, is not a substitute for compliance with the ALUCP's runway proximity standards for vulnerable occupants.

In the event that Monterey Regional Airport District comments on the City's Notice of Intent to Overrule have not been presented to the City Council, they are attached for your convenience (**Attachment 2**). The District's letter reaffirms its original position that "The proposed undertaking at 2400 Garden Road would increase the potential number of vulnerable occupants in the vicinity of MRY which further decreases safety margins in the 6,000 ft / 10,000 ft review area which is inconsistent with the intent of the Monterey Regional Airport Land Use Compatibility Plan" and that the "Monterey Regional Airport strongly discourages the proposed use of 2400 Garden Road as a Day Care Center." The ALUC concurs with the concerns raised in the District's letter and appreciates the helpful exhibit and associated data, which are utilized for the discussion below.

Within the 6,000 ft /10,000 ft area surrounding the Monterey Regional Airport runways, there are 25 existing land uses that accommodate vulnerable occupants, nine of which were classified as Daycares/Preschools or In-House Daycare/Preschool. While existing land uses are exempt from ALUCP review, all new uses or changes in uses are regulated by the ALUCP. The ALUCP strongly discourages any use involving vulnerable occupants from being introduced within 6,000 ft / 10,000 ft of the Monterey Regional Airport's runways (Table 4B of the ALUCP). The proposed project would be the tenth daycare/school within 6,000 ft or 10,000 ft of the MRY runways, and the closest facility to the airport. The nearest existing day cares are separated from the airport by major roadways, including CA-1, SR 218, and SR 68. The nearest similar use, Auburn's House Montessori School, is located at 1242 Siddall St, Seaside, CA, which is 5,000 feet north of the nearest runway at MRY. In contrast, the proposed day care at 2400 Garden Road is 1,395 feet south of the main runway at MYR and directly adjacent to Zone 5, which prohibits daycare uses.

Caltrans provided comment on the Notice of Intent to Overrule on March 4, 2026, stating, "special measures should be taken to minimize hazards to the facility and occupants" (**Attachment 3**). No special measures have been taken to minimize hazards. Caltrans' letter also supports the ALUCP's ability to establish a policy that strongly discourages the introduction of uses involving vulnerable occupants within proximity to an airport. Per Caltrans' recommendation, should the City Council overrule the ALUC, the ALUC strongly encourages that the Council require the Montessori Community School conduct an acoustics report to determine if additional noise attenuation is necessary to maintain interior noise levels below 45 CNEL, or lower if needed, and as required by the California Building Code.

For the above reasons, the ALUC strongly urges the City Council not to overrule the ALUC and uphold the ALUC's July 28, 2025, decision to find the Montessori Community School application (HCD-Planning File No. REF250022) inconsistent with the 2019 MRY ALUCP.

If you have any questions, please contact ALUC staff, Fionna Jensen, at (831) 796-6407 or JensenF1@countyofmonterey.gov. Please provide ALUC staff with public notice regarding this item.

Respectfully,

John Scherer
ALUC Chair

Attachments:

1. ALUC Resolution No. 25-003
2. MRY District Comments
3. Caltrans Comments

Cc: ALUC file No. REF250022