



CITY OF SACRAMENTO

40

DEPARTMENT OF LAW
812 TENTH STREET SACRAMENTO, CA 95814
SUITE 201 TELEPHONE (916) 449-5346

JAMES P. JACKSON
CITY ATTORNEY
THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY
LELIAND J. SAVAGE
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
STEPHEN B. NOCITA
DIANE B. BALTER
CHRISTINA PRIM
DEPUTY CITY ATTORNEYS

August 18, 1982

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Executive Airport Area Building
and Occupancy Permit Moratorium

SUMMARY:

This report explains the attached draft ordinance.

BACKGROUND

On August 17 the Council (1) adopted, as an emergency ordinance (82-067), a moratorium on the acceptance of building and occupancy permit applications which propose new or changed land uses inconsistent with the Executive Airport Comprehensive Land Use Plan, and (2) requested preparation of a second emergency ordinance which would allow appeals to the City Council of staff permit application rejections pursuant to Ordinance No. 82-067.

The attached ordinance responds to this Council request. If this ordinance is adopted:

1. All building and occupancy permit applications proposing new or changed land uses within the geographical area subject to the Executive Airport Comprehensive Land Use Plan will be reviewed by the Planning Department.
2. If the Planning Director believes the proposed land use is consistent with the Plan, the permit will be issued in the normal course. If the Planning Director concludes the proposed land use is inconsistent with the Plan, he will briefly state the basis of inconsistency in a written opinion to the permit applicant.

APPROVED
BY THE CITY COUNCIL

AUG 24 1982

OFFICE OF THE
CITY CLERK

3. Upon receipt of such an opinion, the permit applicant or any other person aggrieved by the opinion may appeal to the City Council.

4. If the Council denies an appeal, the appellant will have no recourse other than filing a court action to mandate issuance of the requested permit.

5. By a majority vote, the Council may grant the appeal notwithstanding any inconsistency between the proposed use and the Airport Plan. However, the granting of an appeal, clearly discretionary, is probably an "action or regulation" which must be reviewed by the Airport Land Use Commission (ALUC) pursuant to Public Utilities Code Section 21676.

§21676. Proposals of public agencies: Hearing on inconsistent plans: Rehearing by proposing agency: Overruling commission finding: Changes in plans

Each public agency have representation on the commission shall assist in the development of an area plan. All such plans must be filed with the commission for its approval. If in the determination of the commission, an action or regulation of any public agency within the boundaries of the area plan is inconsistent with the commission plan, then the commission shall hold a hearing to determine whether or not the proposed action is in the best interest of the airport and the adjacent area. If it is determined that the action would be harmful, then the public agency shall be notified and the public agency shall have another hearing to reconsider its action. The public agency proposing the action or regulation, however, may overrule the commission after such hearing by a four-fifths vote of its governing body.*.....

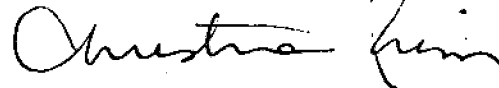
6. If the ALUC approves the appeal, the requested permit will be issued without additional Council action. If the ALUC disapproves the proposed land use, the Council must conduct a second hearing to reconsider the appeal. Only if the Council by a four-fifths vote*

* If enacted, AB 2920 will amend §21676 to allow a 2/3 rather than a 4/5 City override, but will require the City to make specific findings that the proposed action approved by the override is consistent with the purposes of the State airport land use law. The effective date of this part of AB 2920 is currently proposed to be January 1, 1983.

reaffirms the appeal approval, thus overriding the ALUC, will the requested permit be issued. Absent a super-majority Council override, the permit application may not be accepted and the applicant will have no recourse other than filing a judicial action.

Very truly yours,

JAMES P. JACKSON
City Attorney

A handwritten signature in cursive script, appearing to read "Christina Prim".

CHRISTINA PRIM
Deputy City Attorney

100-1000

ORDINANCE NO. 82-072

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AUGUST 24, 1982

AN ORDINANCE AUTHORIZING APPEALS TO THE CITY COUNCIL OF BUILDING AND OCCUPANCY PERMIT DENIALS BASED ON A STAFF FINDING OF CONFLICT WITH THE EXECUTIVE AIRPORT COMPREHENSIVE LAND USE PLAN AND DECLARING SAID ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 1 of City Ordinance No. 82-067 is hereby amended to read as follows:

No application for a building permit or occupancy permit shall be accepted for filing, processed, or approved by any department, officer, employee, board, commission or the Council of the City of Sacramento if such permit is necessary or required to establish or change a land use or occupancy which, in the written opinion of the City Planning Director, is inconsistent with the Executive Airport Comprehensive Land Use Plan, as approved by the City Council on March 16, 1982. Said written opinion shall be mailed or personally delivered to the permit applicant and shall briefly state the reason(s) why the proposed use is inconsistent with the Executive Airport Comprehensive Land Use Plan.

SECTION 2.

A. Any person dissatisfied with a decision by the Planning Director to deny acceptance of a building or occupancy permit application pursuant to Section 1 of this ordinance may appeal therefrom to the City Council within ten (10) days after receipt of the written opinion described in Section 1 of this ordinance.

B. An appeal shall be taken by filing a written notice of appeal with the City Clerk. The City Clerk shall notify the City Council of such appeal. The City Council shall thereupon schedule, hear, and decide the appeal. Notice of the appeal and decision shall be provided by the City Clerk to the Executive Airport Land Use Commission and any person who submitted to the City Clerk a written request for such notice.

APPROVED
BY THE CITY COUNCIL

AUG 24 1982

OFFICE OF THE
CITY CLERK

C. The City Council may grant the appeal notwithstanding any inconsistency of the proposed use with the Executive Airport Comprehensive Land Use Plan.

SECTION 3.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are as follows:

On August 17, 1982, the City Council adopted as an emergency measure Ordinance No. 82-067, establishing a moratorium on building and occupancy permits in conflict with the Executive Airport Comprehensive Land Use Plan.

It is necessary that this ordinance take effect immediately to provide for a City Council appeal procedure in the event a permit is denied in the immediate future pursuant to Ordinance No. 82-067.

MAYOR

ATTEST:

CITY CLERK