

..title

ALUC-22-03 Northgate Childcare Center

Public hearing to consider the consistency of Application No. ALUC-22-03, (Northgate Childcare Center), with the Travis Air Force Base (AFB) Land Use Compatibility Plan (LUCP) (City of Benicia)

..body

RECOMMENDATION:

Determine that Application No. ALUC-22-03 (Northgate Childcare Center), is consistent with the Travis AFB Land Use Compatibility Plan (LUCP).

DISCUSSION:

Background

Section 21676 (d) of the State Aeronautics Act requires Airport Land Use Commission (ALUC) review of any zoning ordinance change within an Airport Influence Area. The City of Benicia has referred an application for a zoning ordinance text amendment to allow child day care uses in the Open Space District “when located on the grounds and within the facilities of a duly permitted religious assembly use.”¹ The proposed zoning amendment addresses an application by Northgate Christian Fellowship for a use permit to conditionally allow a child day care center within existing religious assembly facilities on a parcel currently zoned as an Open Space District. The City of Benicia is processing the child day care use permit concurrently with the proposed zoning text amendment. The project location is within Zone D of the Travis AFB Land Use Compatibility Plan and day care centers are not a restricted use in Zone D; therefore; the use permit is not subject to Solano ALUC review. Solano ALUC review is limited to the proposed zoning text amendment.

Project Description

The proposed zoning amendment would add text to Section 17.36.03 of the Benicia Municipal Code enumerating additional use regulations for the Open Space (OS) District. The proposed section would read as follows:

(J) A day care center may be conditionally permitted only when it would be located on the grounds and within the facilities of a duly permitted religious assembly use. Adequate off-street parking for the day care center shall be provided for per BMC Chapter 17.74, except when the applicant demonstrates consistency with the findings for collective provision of parking pursuant to BMC 17.74.040 and the collective provision of parking is specifically authorized by the use permit for a day care facility.

The amendment is proposed to specifically allow a child day care facility on the grounds of an existing religious assembly facility located at 2201 Lake Herman Road. Attached is a copy of the proposed Ordinance amending City of Benicia Zoning Code (Title 17).

AIRPORT PLANNING CONTEXT

Zoning code amendments must undergo review by the ALUC for consistency with the applicable

¹ See Attachment A

LUCPs. The proposed amendment would apply to the Open Space District as discussed in the Benicia Municipal Code. Areas zoned as Open Space Districts are present throughout the City of Benicia which is located in Compatibility Zones D and E of the Travis AFB LUCP (see Figure 1, Attachment B).

The applicable Travis AFB LUCP compatibility criteria along with the consistency test for a zoning change are presented below.

APPLICABLE COMPATABILITY CRITERIA

Travis AFB LUCP Compatibility Zone D

The compatibility criteria for Compatibility Zone D of the Travis AFB LUCP requires height review for structures exceeding 200 feet above ground level (AGL). Height review is based on the 14 CFR Part 77 imaginary airspace surfaces for Travis AFB. In addition, Compatibility Zone D provides for review under the following special circumstances:²

- All proposed wind turbines must meet line-of-sight criteria in Policy 3.4.4
- All new or expanded commercial-scale solar facilities must conduct an [Solar Glare Hazard Analysis Tool (SGHAT)] glint and glare study for ALUC review
- All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
- For areas within the Bird Strike Hazard Zone, reviewing agencies shall prepare a [wildlife hazard analysis (WHA)] for discretionary projects that have the potential to attract wildlife that could cause bird strikes. Based on the findings of the WHA, all reasonably feasible mitigation measures must be incorporated into the planned land use.
- For areas outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use involving discretionary review that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.

Additionally, specific airspace protection criteria applicable in Compatibility Zone D state, “[n]o hazards to flight, including physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations, and land uses that may attract birds to increase in the area shall be permitted.”³ There is also a buyer awareness measure in place which states, “a notice regarding aircraft operational impacts on the property shall be attached to the property deed.”⁴

Travis AFB LUCP Compatibility Zone E

Compatibility Zone E of the Travis AFB LUCP includes the area between the outer perimeter of Compatibility Zone D and the boundary of Solano County which defines the outer perimeter of the Travis AFB airport influence area (AIA). Within Compatibility Zone E, any proposed structures 200 feet or higher AGL require ALUC review. Aside from a charge that large stadiums and similar large assembly uses should be avoided, there are no prohibited land uses or restrictions on development density or intensity.

² County of Solano, Department of Resource Management. *Travis Air Force Base Land Use Compatibility Plan*. October 8, 2015. Section 4.6, p. 22.

³ *Id* at p. 23.

⁴ *Id* at p. 22.

APPLICABLE CONSISTENCY TEST

Zoning Change Consistency Test

Under section 21676(b) of the Public Utilities Code, any proposed zoning regulations or revisions to the local zoning ordinance shall be reviewed for consistency with adopted airport land use compatibility plans.

California Airport Land Use Planning Handbook

The California Department of Transportation (Caltrans) Division of Aeronautics has published the California Airport Land Use Planning Handbook (Caltrans Handbook) as a guide for Airport Land Use Commissions (ALUCs) in the preparation and implementation of Land Use Compatibility Planning and Procedure Documents. Section 6.4.2 of the Caltrans Handbook establishes the guidance appropriate for reviewing zoning ordinances and building regulations. This section references Table 5A of the Caltrans Handbook which presents the consistency requirements for "Zoning or Other Policy Documents." These consistency requirements include the following:

- *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 Travis AFB LUCP policies and criteria applicable to the consistency requirements enumerated in Table 5A of the Caltrans Handbook are discussed below.

Intensity Limitations on Non-residential Uses

There are no intensity limits on new uses in Compatibility Zone D or E. However, the Travis AFB LUCP does state that large stadiums are to be avoided in Compatibility Zone E.⁵ The proposed zoning amendment concerns only child day care facilities under specific circumstances, and development of large assembly uses are not anticipated to result from adoption of the amendment. This consistency test is not applicable to the proposed zoning amendment.

Identification of Prohibited Uses

Land uses with potential for visual or electromagnetic interference and wildlife attractants are prohibited in Compatibility Zone D.⁶ There are no uses prohibited in Compatibility Zone E of the Travis AFB LUCP. The proposed zoning amendment would only allow child day care facilities under specific conditions, and there is no guidance suggesting such uses would have potential for visual or electromagnetic interference or to attract wildlife hazardous to aircraft. There is no inconsistency between the proposed zoning amendment and the uses prohibited by the Travis AFB LUCP.

⁵ County of Solano, Department of Resource Management. *Travis Air Force Base Land Use Compatibility Plan*. October 8, 2015. Section 4.6, p. 23.

⁶ County of Solano, Department of Resource Management. *Travis Air Force Base Land Use Compatibility Plan*. October 8, 2015. Section 4.6, p. 22.

Open Land Requirements

There are no open land requirements associated with Compatibility Zones D or E of the Travis AFB LUCP. Therefore, open land requirements are not applicable to the proposed zoning amendment.

Infill Development

Section 6.2.4(C)(1) of the Travis AFB LUCP allows for infill development in areas with existing nonconforming land uses. The proposed zoning amendment is narrowly focused and would only allow child day care facilities to be operated in existing religious assembly facilities in areas zoned as Open Space Districts. The zoning amendment is not anticipated to induce infill development, and this consistency requirement is not applicable.

Height Limitations and Other Hazards to Flight

The portion of the city of Benicia wherein Compatibility Zone D airspace protection criteria are applicable is subject to requirements for ALUC review of objects exceeding heights of 200 feet AGL (including meteorological towers, whether temporary or permanent), line-of-site criteria concerning wind turbines, and SGHAT glint and glare studies for commercial-scale solar facilities.

Within Compatibility Zone E, the above factors also apply.

The proposed zoning amendment would only allow the operation of child day care centers within existing facilities and would not involve construction of new facilities or structures. Therefore, the consistency requirements regarding height limitations and other hazards to flight are not applicable.

Buyer Awareness Measures

The Travis AFB LUCP establishes buyer awareness measures for residential property transactions.⁷ However, the proposed zoning amendment only applies to child day care centers in existing religious assembly facilities and the buyer awareness measures of the Travis AFB LUCP would not apply.

Nonconforming Uses and Reconstruction

The Travis AFB LUCP establishes specific conditions under which reconstruction of nonconforming uses may occur in Policy 6.2.4(c)(3). Conditions attached to reconstruction of nonconforming uses limit the number of residential dwelling units and nonresidential use intensity to what had existed prior to the damage. The policy also establishes the timeframe under which reconstruction of a nonconforming use may occur. The policy does not apply to any nonconforming uses within a clear zone or runway protection zone, which should not be reconstructed under any conditions.

The proposed zoning amendment would apply to the operation of child day care centers in existing facilities and would not introduce any new incompatible uses in Compatibility Zones D or E of the Travis AFB LUCP. The proposed zoning amendment would not allow for any reconstruction of nonconforming uses, and this consistency requirement is not applicable.

⁷ *Id* at p. 22.

Analysis Finding

Based on the above consistency tests, staff recommends that the Commission find that the Northgate Childcare Center and associated amendment to the Benicia Municipal Code is consistent with the policies and criteria of Travis AFB LUCP.

RECOMMENDATION:

Based on the analysis above, Staff recommends that the Solano County Airport Land Use Commission find as follows:

Determination: That application ALUC-22-03, (Northgate Childcare Center) is consistent with the Travis AFB LUCP.

ATTACHMENTS:

[Attachment A: City of Benicia Application & Draft Ordinance](#)

[Attachment B: Figure 1](#)

Attachment C: Resolution (To Be Distributed by Separate Cover)



250 East L Street • Benicia, CA 94510 • (707) 746-4280 • Fax (707) 747-1637

Community Development Department Planning Division

May 9, 2022

Nedzlene Ferrario
Solano County Department of Resource Management
Planning Services Division
675 Texas Street, Suite 5500
Fairfield, CA 94533-6341

RE: Referral of Zoning Text Amendment to Airport Land Use Commission

Dear Ms. Ferrario,

Enclosed please find an application to the Airport Land Use Commission, requesting the Commission's review of a proposed Zoning Text Amendment within the City of Benicia for compatibility to the Travis Air Force Land Use Compatibility Plan (ALUCP). The proposed Zoning Text Amendment would enable Day Care Centers to be permitted in the Open Space zone. It would specifically enable development of a day care center in existing Northgate Church facilities at 2201 Lake Herman Road, on the north side of Lake Herman Road, on parcel APN 0181-260-090. The proposed site for the day care center is in Zone D of the Travis ALUCP.

The proposed project includes the following:

- Zoning amendment to allow Day Care Center use in the Open Space District, when located on the grounds and within the facilities of a duly permitted religious assembly use, subject to approval of a Use Permit;

The City of Benicia hopes that you will review the enclosed application and documentation to advise us of the application's completeness and any comments you may have. As we discussed by phone on April 19, 2022, the City hopes to bring this item for ALUC consideration at its June 9, 2022, meeting.

Thank you for your assistance and consideration.

Respectfully,

Vic P. Randall
Vic Randall
Senior Planner

Solano County Airport Land Use Commission

675 Texas Street Suite 5500
Fairfield, California 94533
Tel 707.784.6765 / Fax 707.784.4805
SolanoALUC@SolanoCounty.com

LAND USE COMPATIBILITY DETERMINATION: APPLICATION FORM

TO BE COMPLETED BY STAFF		
APPLICATION NUMBER:	FILING FEE:	
DATE FILED:	RECEIPT NUMBER:	
JURISDICTION:	RECEIVED BY:	
PROJECT APN(S): 		
TO BE COMPLETED BY THE APPLICANT		
I. GENERAL INFORMATION		
NAME OF AGENCY: 250 East L Street, Benicia, CA 94510		DATE: 5/9/22
ADDRESS: 250 East L Street, Benicia, CA 94510		
E-MAIL ADDRESS: comdev@ci.benicia.ca.us	DAYTIME PHONE: 707-746-4320	FAX: 707-747-1637
NAME OF PROPERTY OWNER: Northgate Christian Fellowship		DATE: 5/9/22
ADDRESS: 2201 Lake Herman Road		DAYTIME PHONE: 707-400-6758
NAME OF DOCUMENT PREPARER: Vic Randall		DATE: 5/9/22
ADDRESS: 250 East L Street, Benicia, CA 94510	DAYTIME PHONE: 707-746-4278	FAX: 707-747-1637
NAME OF PROJECT: Northgate Childcare Center		
PROJECT LOCATION: North of Lake Herman Road, west of East Second Street, in APN 0181-260-090, within the City of Benicia.		
STREET ADDRESS: 2201 Lake Herman Road		

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

Page 2

LAND USE COMPATIBILITY DETERMINATION APPLICATION

TO BE COMPLETED BY THE APPLICANT

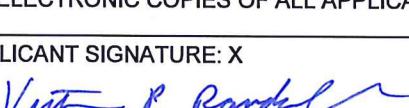
II. DESCRIPTION OF PROJECT

The City Council of the City of Benicia will consider adopting an Ordinance that would amend Title 17 (Zoning) of the Benicia Municipal Code to enable day care center uses in the Open Space District, when located on the grounds and within the facilities of a duly permitted religious assembly use. Please see the attached draft Ordinance.

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

Page 3

LAND USE COMPATIBILITY DETERMINATION APPLICATION

TO BE COMPLETED BY THE APPLICANT	
II. DESCRIPTION OF PROJECT (CONT'D)	
POTENTIAL PROJECT EMISSIONS: (i.e. smoke, steam, glare, radio, signals): None	
PROJECT AIRPORT LAND USE COMPATIBILITY PLAN: Travis Airport Land Use Compatibility Plan	COMPATIBILITY ZONE: D
PERCENTAGE OF LAND COVERAGE: N/A	MAXIMUM PERSONS PER ACRE: N/A
THE FOLLOWING INFORMATION MUST BE SUBMITTED AS A MINIMUM REQUIREMENT:	
<input type="checkbox"/> JURISDICTION REFERRAL LETTER: <input type="checkbox"/> ENVIRONMENTAL DOCUMENTATION: <input type="checkbox"/> LOCATION MAP: <input type="checkbox"/> ASSESSOR'S PARCEL MAP, with subject property marked in red: <input type="checkbox"/> SITE PLAN, drawn to scale and fully dimensioned including topographical information, and 8 1/2 x 11 inch reduction(s): <input type="checkbox"/> ELEVATIONS, if located in APZ, clear zones and A,B,C compatibility zones or over 200' in height, plus 8 1/2 x 11 inch reduction(s) : <input type="checkbox"/> WIND TURBINE STUDY, including cumulative impact studies. Such studies shall include an analysis of (1) the individual effects of the proposed project, and (2) as required by law, an analysis of the cumulative effects of the proposed project considered in connection with the effects of past projects, the effects of other current projects and proposed projects, and the effects of probable future projects, including (i) the probable build out for wind energy development of the remaining vacant parcels within the wind resource areas described in the Solano County General Plan and (ii) any probable replacement of existing turbines or meteorological towers with structures having different dimensions. <input checked="" type="checkbox"/> SUPPLEMENTAL INFORMATION: draft ordinance <input checked="" type="checkbox"/> FEES: \$200.00 <input type="checkbox"/> ELECTRONIC COPIES OF ALL APPLICATION MATERIALS ON A CD:	
APPLICANT SIGNATURE: X	DATE:
 Does the project propose the demolition or alteration of any existing structures on the project site? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, describe below:	

PLEASE CALL THE APPOINTMENT DESK AT (707) 784-6765 FOR AN APPLICATION APPOINTMENT.

CITY OF BENICIA

ORDINANCE NO. 22-_____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING
TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE (BMC) TO ALLOW THE
DAY CARE CENTER USE CLASSIFICATION IN THE OPEN SPACE DISTRICT
WHEN LOCATED ON THE GROUNDS AND WITHIN THE FACILITIES OF A DULY
PERMITTED RELIGIOUS ASSEMBLY USE**

WHEREAS, Northgate Christian Fellowship (Applicant) has requested approval of a zoning text amendment to allow the day care center use classification, associated regulations, and conditionally permit day care center use in the Open Space District with the approval of a use permit (Application No. PLN-22-15); and

WHEREAS, the Applicant has filed a concurrent application for a use permit (Application No. PLN-22-15) to operate a day care center in existing religious assembly facilities on a 20-acre parcel located on the north side of Lake Herman Road, more specifically described as APN 0181-260-090; and

WHEREAS, the subject property is located in the Open Space (OS) District and has a General Plan designation of General Open Space; and

WHEREAS, the proposed project would require the approval of a use permit from the Planning Commission and an approval of a zoning text amendment from the City Council to allow and permit the said use; and

WHEREAS, the zoning text amendment would amend Benicia Municipal Code Chapter 17.36 (OS Open Space District) to allow the day care center use classification in the Open Space District, as well as regulations for such use, thereby creating the ability for day care center use to be a conditionally permitted use in the Open Space District; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2022, and considered all public and written comment, pertinent information, documents and recommended that the City Council approve the proposed amendments to the Benicia Municipal Code Title; and

WHEREAS, the City Council of the City of Benicia held a duly noticed public hearing, which notice was published in the Benicia Herald on _____, 2022, made certain findings, and introduced this ordinance on _____, 2022.

NOW, THEREFORE, the City Council of the City of Benicia does hereby ordain as follows:

Section 1. Section 17.36.030 (Land use regulations) of Chapter 17.36 (OS Open Space District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended by adding the following use classification to Table “OS District: Land Use Regulations”:

Public and Semipublic		
Day Care Center	U	(J)

Section 2. Section 17.36.030 (Land use regulations) of Chapter 17.36 (OS Open Space District) of Title 17 (Zoning) of the Benicia Municipal Code is hereby amended by adding the following section to “OS District: Additional Use Regulations”:

(J) A day care center may be conditionally permitted only when it would be located on the grounds and within the facilities of a duly permitted religious assembly use. Adequate off-street parking for the day care center shall be provided for per BMC Chapter 17.74, except when the applicant demonstrates consistency with the findings for collective provision of parking pursuant to BMC 17.74.040 and the collective provision of parking is specifically authorized by the use permit for a day care facility.

Section 3. Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 4. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Benicia, California and cause the same to be published in accordance with State law.

Section 5. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law.

On motion of Council Member , seconded by Council Member , the foregoing ordinance was introduced at a regular meeting of the City Council on the day of , 2022, and adopted at a regular meeting of the Council held on the day of , 2022 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Steve Young, Mayor

Attest:

Lisa Wolfe, City Clerk

Date



SOURCE: Solano County, 2022; Maxar, 2021.

ALUC 22-03

Figure 1
Northgate Childcare Center Site
with Travis AFB Compatibility Zones