

1.3. Definitions

1.3.13 Existing Land Use:

- (a) The Aeronautics Act gives an ALUC authority to conduct compatibility planning around airports only "to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses" (Public Utilities Code §21674(a)). This phrase is generally accepted to mean that an ALUC has no authority over existing land uses; therefore, such projects are not subject to ALUC review. For purposes of this *Compatibility Plan*, a project shall be considered an "existing land use" when a "vested right" is obtained, as follows:
- (1) A vesting tentative map has been approved pursuant to California Government Code Section 66498.1 and not expired; or
 - (2) A development agreement has been executed pursuant to California Government Code Section 65866 and remains in effect; or
 - (3) A valid building permit has been issued, substantial work has been performed, and substantial liabilities have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in *Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785,791, and its progeny.
- (b) A proposed modification to an existing land use that will result in an increase in height, a change of use, or an increase in density or intensity of use which is not in substantial conformance with the development project entitled by the local jurisdiction shall be subject to this *Compatibility Plan*. (See, e.g., Policy 2.3.4.)
- (c) The determination of whether a project meets the criteria of an "existing land use" shall be made by the local jurisdiction and the ALUC.