

Correspondence to the City of Pasco on The Proposed UGA Boundary

City of Pasco Application for UGA Boundary Amendment 2018

MEMORANDUM

Date: May 11, 2018

To: City of Pasco – Planning Commission

From: James C. Carmody
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230 South Second Street
Yakima, WA 98907

Subject: Urban Growth Area Boundary Expansion (UGA) CPA 2018-001 –
Farm 2005, LLC

This memorandum is submitted by Farm 2005, LLC (“Farm 2005”) with respect to City of Pasco’s (“City” or “Pasco”) expansion of its Urban Growth Area (UGA). Farm 2005 is the owner of a 160 acre parcel of land proposed to be included in the UGA expansion. *Attachment A*. We fully support Pasco Planning staff recommendations. The City of Pasco (“City” or “Pasco”) is required by the Growth Management Act (GMA) to periodically review and update its Comprehensive Plan. RCW 36.70A.130. A key component in the review is evaluation, assessment and planning for the Urban Growth Area (UGA). Pasco Planning Department has conducted an exhaustive review of long-term planning issues and developed a thoughtful recommendation for UGA expansion. Planning Staff recommends that the UGA expansion include 160 acres of property owned by Farm 2005, LLC.¹ The property meets or exceeds all criteria for inclusion within the Pasco UGA. The inclusion is recommended by Planning Staff and has twice been recommended by Pasco Planning Commission and approved by Pasco City Council.

¹ Farm 2005, LLC has previously submitted applications for expansion of the UGA in order to accommodate 160 acres of property located adjacent to the northern UGA boundary. The parcel is located at the intersection of Road 52 and Burns Road. Adjacent properties have been developed with single family residences, a new elementary school was recently constructed and full extension of public utilities including water and sewer are available to serve the property. A locational map is attached as *Attachment A*. The property is subject to the adopted airport safety overlay ordinance is adopted by Franklin County (FCC Ch. 17.75) and, with annexation, City of Pasco overlay ordinance (PMC Ch. 25.81). Farm 2005 has submitted two (2) prior applications for inclusion of this property within the growth boundary. In each instance, the application has been recommended and approved by Pasco Planning Commission and City Council. Franklin County denied the application and “...strongly encouraged [City of Pasco] to reconsider the UGA Amendment within the context of the 2018 periodic review as required by RCW 36.70A.130(5)(d).” *Franklin County Resolution No. 2015-395*. The property is now being considered and proposed for inclusion within the UGA as a part of the periodic review process.

Growth Management Mandate

Development of the UGA area is to be guided by specific state-wide planning goals. The UGA is intended to establish a sufficient area to accommodate growth over a twenty (20) year planning horizon. City of Pasco is facing significant pressures to meet and satisfy growth projections.² Even at the “medium” population projection, Pasco is projected to have an increase of 50,148 residents. Under the current OFM household size of 3.278, the city will need to plan on providing 15,298 new housing units. The housing demand includes both single-family and multi-family residential properties. This projected growth requires the addition of approximately 3,500 acres of land to the current urban growth area (UGA).³

The legislature has set forth a list of specific goals that must be considered and guide the development and adoption of comprehensive plans and development regulations. RCW 36.70A.020. The planning goals include the following:

- *Urban Growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.*
- *Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.*
- *Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.*
- *Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of land owners shall be protected from arbitrary and discriminatory actions.*
- *Public Facilities and Services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and*

² State of Washington Office of Financial Management (OFM) provides population estimates for each county in the state. OFM has provided population estimates for Franklin County, Washington. The City of Pasco and Franklin County have previously determined that 80% of the county-wide population estimate will be assigned to Pasco. The remaining 20% is divided between the County and the small communities within the County. Pasco has a current population of 71,680 people. The “medium” population estimate indicates that municipal growth over the next twenty years would be to 121,828 residents. This is an increase of 50,148 residents.

³ Pasco Planning Staff has provided detailed analysis with respect to both the current available land inventory as well as appropriate population projections. The current UGA contains 702 vacant single-family lots and 82 multi-family lots. Additionally, there are 1,972 vacant acres of single-family land and 172 acres of vacant multi-family land within the current UGA. Of the 1,972 acres of vacant land in the UGA, roads will require 493 acres, schools and soccer complex will require 158 acres; American Rock pit occupies 330 acres; and 80 acres are unbuildable due to steep slopes, floodplain issues and past gravel mining. As a result, there are only 1,248 acres left within the UGA for residential development.

use without decreasing current service levels below locally established minimum standards.

There are three important planning goals applicable to the Farm 2005 property: (1) development should be located where “adequate public services and facilities exist”; (2) the city must promote a variety of residential densities; and (3) that “private property may not be taken for public use without just compensation.” Planning Staff recommendation is consistent with the statutory planning goals.

Of critical importance in this case is the planning goal that “...private property shall not be taken for public use without just compensation having been made....” The property rights of land owners is to be protected from *arbitrary and discriminatory actions*.⁴ The sole opposition to inclusion of the Farm 2005 property within the recommended UGA has come from Port of Pasco and Tri-Cities Airport. Stated in another way, Tri-Cities Airport asks that this private property owner sacrifice its property rights for an amorphous and unsubstantiated public benefit. To be clear, a denial of this application is a taking and contrary to the stated planning goal. “The talisman of a taking is government action which forces some private persons alone to shoulder affirmative public burdens, ‘which, in all fairness and justice, should be borne by the public as a whole.’” *Mission Springs, Inc. v. City of Spokane*, 134 Wn.2d 947, 964, 954 P.2d 250 (1998) (quoting *Armstrong v. United States*, 364 US 40, 49 (1960)). It should be remembered that the Farm 2005 property is (1) subject to the adopted airport safety overlay ordinance which future 1800 foot expansion of Runway 12; (2) is located outside of any required air space protection areas; and (3) is not within an area of incompatible noise contours for residential development.

Tri-Cities Airport is asking that the Farm 2005 property be sacrificed to the benefit of the airport and, theoretically the public. This exact action has been recognized by the courts as an unconstitutional exercise of governmental authority. *DeCook v. Rochester International Airport*, 796 N.W.2d 299 (2011) (holding ordinance extending runway safety zone was unconstitutional taking); and *McCarran International Airport v. Sisolak*, 122 Nev. 645, 137 P.3d 1110 (2006) (holding ordinance imposing height restriction for airport was a *per se* taking).

Farm 2005 Meets All Standards for Inclusion in the Pasco UGA.

Pasco Planning has reviewed the OFM population projections, prepared a land capacity analysis, evaluated facility availability and concurrency, and recommended a significant

⁴ Planning Goal 6 also seeks to address “arbitrary and capricious” actions. Washington Courts have defined “arbitrary and capricious” to mean “willful and unreasonable action, without consideration and a disregard of facts or circumstances.” *Hood Canal Sand & Gravel, LLC v. Goldmark*, 195 Wn. App. 284, 307, 381 P.3d 95 (2016). The denial of this application would be arbitrary and capricious.

expansion in the Urban Growth Area (UGA). The aggregate recommendation is for the addition of 4237 acres which will be necessary to accommodate 50,148 new residents. Farm 2005 property contributes 160 acres to the municipal need and requirements. Planning staff notes, however, that population projections are not the sole consideration in selecting properties for UGA expansion.

Population growth is only one factor to consider in determining a UGA Boundary. Existing development patterns, major transportation corridors and utilities are all issues that must be considered.

The Farm 2005 property meets all criteria for inclusion within the expanded UGA. Stated simply it is the most suitable parcel under the applicable standards.

- Farm 2005 property is immediately adjacent to the existing Urban Growth Area Boundary. The property is served is adjacent to established transportation corridors – Road 52 and Burns Road. The property is suited for northerly arterial expansion (potentially serving Clark addition). The property is easily developed with flexibility for establishing arterial location, contours and grid layouts.
- Farm 2005 property is adjacent to existing residential development and consistent with existing development patterns, includes designation for both single-family and multi-family residential land use. This designation meets GMA's planning goal to "...promote a variety of residential sites and housing types." RCW 36.70A.020(4) (Planning Goal 4). It also addresses the City's need to provide 345 acres of multi-family development land.
- All public facilities and services are immediately available to the property. Water and sewer mainlines extend to the intersection of Road 52 and Burns Road and extension will be a developer responsibility at time of development. The presence of adequate existing public facilities and services meets GMA Planning Goal 1. RCW 36.70A.020(1). It should be noted that the owners of the Farm 2005 property made a contribution of approximately \$1,000,000 to the extension of water lines to serve the property.
- The property is located immediately adjacent to Franklin STEM Elementary School. *Attachment A*. Development within the area allows for pedestrian access to the elementary school which would support family based occupancies.
- The proposed land use designation and zoning promotes the planning goal to provide "...a variety of residential densities and housing types..." The multi-family designation represents the only significant commitment within the new UGA area multi-family density residences.

- Market demand for this property reflects the need and suitability of the property for residential development. The property is currently under contract for sale which is conditioned upon inclusion within the Pasco UGA. The purchase recognizes the immediate need for additional residential development properties and the priority of this particular parcel of property.
- Planning staff recommendation recognizes (1) development limitations established by the airport zoning for Zone 2 (no residential development) and Zone 4 (limited residential development). The property located outside of the airport safety zones is recommended for both single family and multi-family residential occupancies. The multi-family residential recommendation came as a result of a request from Tri-Cities airport. Farm 2005 agrees with this designation.

Farm 2005 Property is Subject to Adopted Airport Safety Overlay Zones.

In accordance with the Growth Management Act (GMA), City of Pasco and Franklin County engaged in a comprehensive planning process that specifically addressed and established standards for protection of the Tri-Cities Airport. City of Pasco adopted PMC Ch. 25.81 Airport Overlay District. *Attachment B*. The stated purpose for the Airport Overlay District was as follows:

25.81.010 PURPOSE. The purpose of the Airport Overlay District is to protect the viability of the Tri-Cities Airport as a significant resource to the community by encouraging compatible land uses, densities and reducing hazards that may endanger the lives and property of the public and aviation users.

PMC 25.81.010. An overlay district establishes development criteria and standards to supplement the base zoning standards. *Schnitzer West, LLC v. City of Puyallup*, ___ Wn.2d ___ (May 10, 2018). The Airport Overlay District was established through consultation with both Franklin County, Tri-Cities Airport, Washington State Department of Transportation – Aviation Division (WSDOT-Aviation) and Federal Aviation Administration (FAA). Each of the participants agreed that the adopted provision established protections with respect to land use compatibility, permissible densities, hazard reduction and review standards. No appeals were filed and the ordinance is now the law for the municipality.

Farm 2005 property is subject to the specific overlay restrictions and requirements. No variances or exceptions have been requested with respect to the adopted rules.

- The Airport Overlay District establishes specific safety standards within the airport influence area which was based upon aircraft accident data from the National Transportation Safety Board (NTSB), the Federal

Aviation Regulations (FAR) Part 77 Imaginary Surfaces, and the “Airports and Compatibility Land Use Guidebook” produced by the Washington State Department of Transportation Aviation Division. PMC 25.81.020. The uses proposed for the Farm 2005 property are consistent with those guidelines.

- The “overlay” concept is summarized as follows:

As the name implies, this classification is laid over the existing City of Pasco zoning district to ensure that densities and land use requirements of the underlying zoning districts are consistent with the NTSB standards and provide for maximum protection to the public, health, safety and general welfare of the community and for those citizens working and residing within the airport influence area.

PMC 25.81.020.⁵ No further restrictions are necessary because the adopted ordinance provides the “maximum protection” for the public.

- Airport Overlay District establishes specific height limitation zones based on FAR Part 77 Surfaces – Objects Affecting Navigable Air Space. PMC 25.81.060. This ordinance provides for protection of the airport and en route airspace. WSDOT Compatibility Guidebook – p. 1-15. The restriction prevents a structure from penetrating the airspace surfaces. The limitations take into consideration precision instrument approach zones, non-precision instrument approach zones and visual approach zones. The Farm 2005 property is located within the extended approach area for Runway 12. Runway 12 is a non-precision instrument approach zone.
- Airport Safety District also establishes “Airport Safety Compatibility Zones”. The airport safety compatibility zones were established following WSDOT Aviation guidelines in “Airport and Compatibility Land Use Guidebook.” (“Compatibility Guidebook”). Farm 2005 property is subject to limitations set forth in Zone 2-Inner Approach Departure Zone and Zone 4-Outer Approach/Departure Zone. PMC 25.81.090.

⁵ WSDOT Compatibility Guidebook recognizes that land use compatibility can be addressed through an overlay zone which addresses both the FAR Part 77 *Imaginary Surfaces* and compatibility zones.

The best approach to promoting compatibility is using a combination of regulatory tools. For example, the use of zoning overlay’s rely on and have a symbiotic relationship to the underlying zoning districts and regulations. Additionally, there are two types of zoning overlays that are designed to achieve different purposes. One that is designed and shaped to address critical air space surfaces depicted in federal regulations FAR Part 77 *Imaginary Surfaces* and the other that addresses compatibility zones or the general operating environment of the airport.

(Italics WSDOT Compatibility Guidebook - page 2-57.) City of Pasco has adopted both the surface protection and compatibility element in its overlay ordinance.

- Residential development is prohibited in Zone 2. Residential development within Zone 4 is limited to RS-20 except south of I-182. This more restrictive than “compatibility criteria” for this zone in WSDOT Guidebook, Appendix F (allowing “high density and intensity mixed use development.” – i.e. 15 or more d.u. per acre). All residential development within Zone 4 must include a disclosure statement required by PMC 25.81.110 on plats, short plats and binding site plans. *Id.*
- There are no use restrictions outside of Zone 2 and Zone 4.
- Airport Safety District was adopted through a public process and compliant with Growth Management Act (GMA). No appeals were filed. The ordinance is binding on all land use decisions and planning. The adopted safety and compatibility determinations cannot be collaterally attacked through a subsequent but unrelated process. *Woods v. Kittitas County*, 162 Wn.2d 597, 628, 174 P.3d 25 (2007). The court in *Kittitas County v. Eastern Washington Growth Management Hearings Board*, 172 Wn.2d 144, 174-175, 256 P.3d 1193 (2011) address airport compatibility and stated that:

The County’s regulation differs from WSDOT recommendations by allowing higher densities and not flatly prohibiting residential uses in certain safety zones. [Citation omitted]. The Board, is supposed to give deference to the County unless the County clearly erred. RCW 36.70A.320(3). The statutory scheme requires only that counties “discourage” incompatible uses. RCW 36.70.547. *Discouragement is not the same as prohibition.*

- Airport Safety District was designed to specifically consider and protect future expansion of the Tri-Cities Airport. The adopted Airport Safety Overlay accounts for future expansion of Runway 12. Zone 2 and Zone 4 were designed to accommodate a future 1800 foot extension of the northwest runway (Runway 12). Tri-Cities Airport acknowledged this fact in comments regarding the Farm 2005 property.:

The zones were laid out according to our 20-year Master Plan which includes a future 1800 foot extension of our northwest runway. This had the effect of changing the area of the UGA expansion from 160 acres to 73 acres – a substantial reduction. The reduced UGA expansion also fell outside any required air space protections and incompatible noise contours for residential development.

Letter from Ron Foraker (Director of Airports) to Carter Timmerman (WSDOT – Aviation Planner) July 8, 2015.⁶ The facts are as follows:

- The adopted Airport Overlay District accommodates future expansion of Runway 12 as contemplated in the Tri-Cities Airport Master Plan.
- Any property located outside of Zone 2 and Zone 4 are not subject to “required airspace protections.” This determination is consistent with the WSDOT land use compatibility guidelines.
- Areas outside of Zone 2 and Zone 4 are also consistent with established noise contours for residential development. That is, the anticipated noise levels from air traffic activities are less than the established 65 db standard set forth in the Tri-Cities Airport Master Plan.
- Tri-Cities Airport suggested to Pasco Planning Staff that areas outside of Zone 2 and Zone 4 be designated for multi-family residential occupancies. This request is consistent with the WSDOT compatibility guidelines.

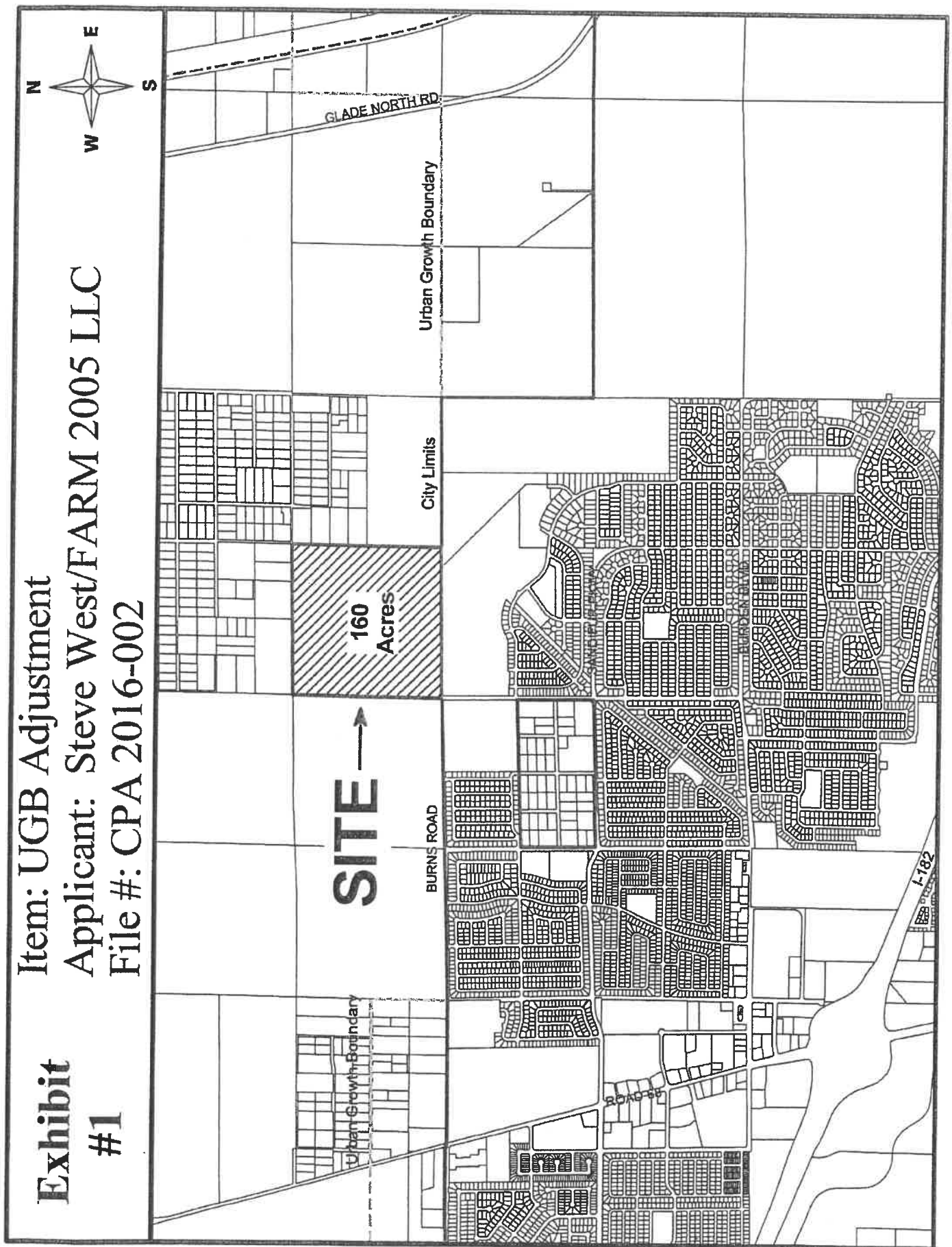
Conclusion.

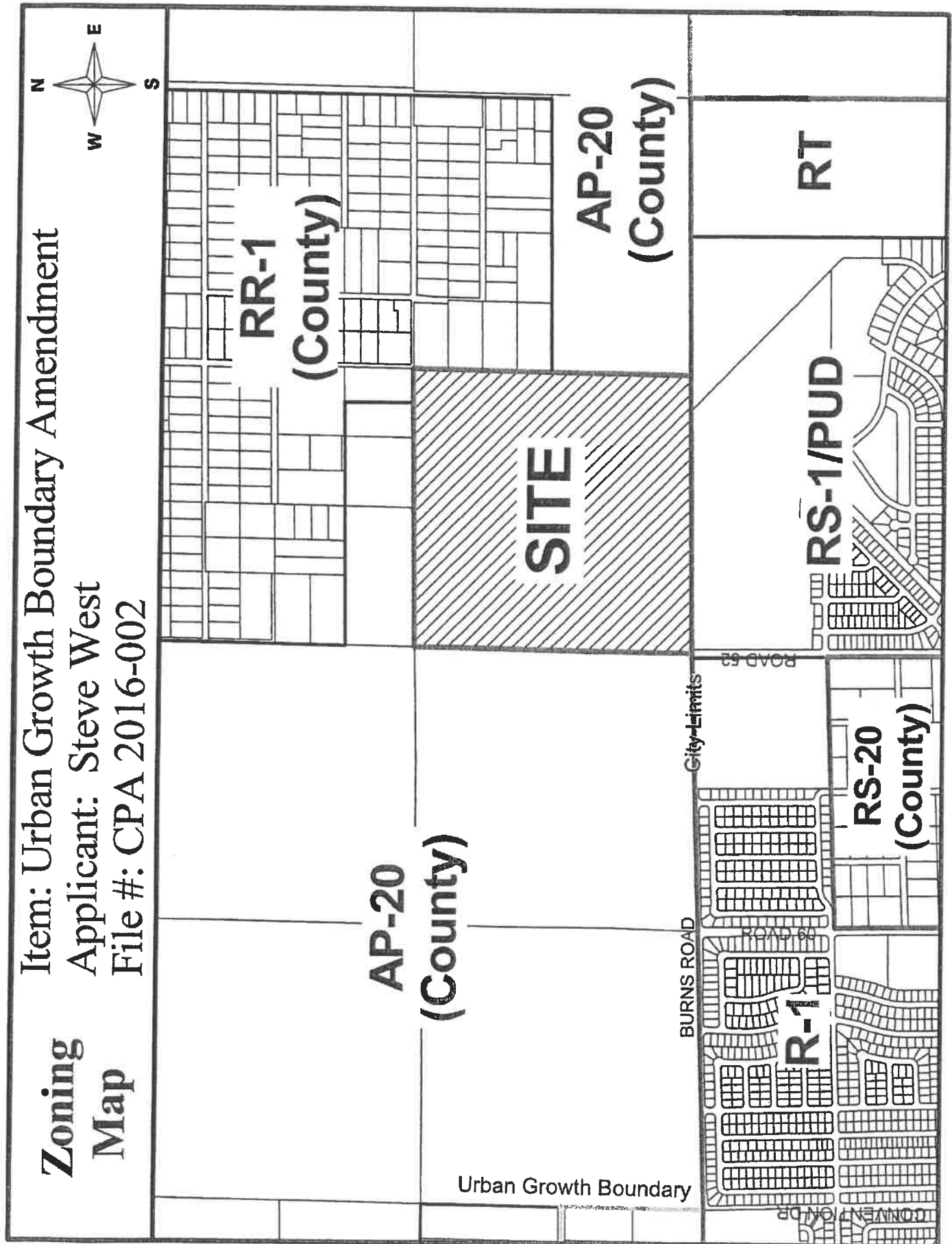
Farm 2005 supports the Planning Staff recommendation with regard to expansion of the Urban Growth Area (UGA). The Farm 2005 property is immediately adjacent to the current UGA boundary, consistent with adjacent development patterns, served by available public facilities (water and sewer) and located on established transportation corridors. The property is subject to the adopted Airport Overlay District zoning and consistent with the adopted Tri-Cities Airport Master Plan including expansion. There is no basis to exclude this property from the UGA expansion. To do so would constitute an unconstitutional taking of property and be arbitrary and capricious conduct in violation of applicable planning goals.

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⁶ In 2015, Farm 2005 submitted its initial application for inclusion of the subject property within the Pasco UGA. Tri-Cities Airport provided comment on the proposed expansion. The comment letter recognized that approximately 73 acres of the total 160 acres was subject to Zone 2 and Zone 4 restrictions. This restriction effectively eliminated residential development within those areas. Tri-Cities Airport recognized this land use restriction to be a “substantial reduction” in the area. This significance of the letter, however, is the recognition that the areas outside of the overlay zone were not subject to any required air space protections and were not incompatible with noise contours for residential development. The final significant point was that recognition that the adopted overlay zone included protection for future expansion of the “northwest runway”, i.e. Runway 12.

ATTACHMENT A





Item: Urban Growth Boundary Amendment

Applicant: Steve West

File #: CPA 2016-002

Vicinity Map

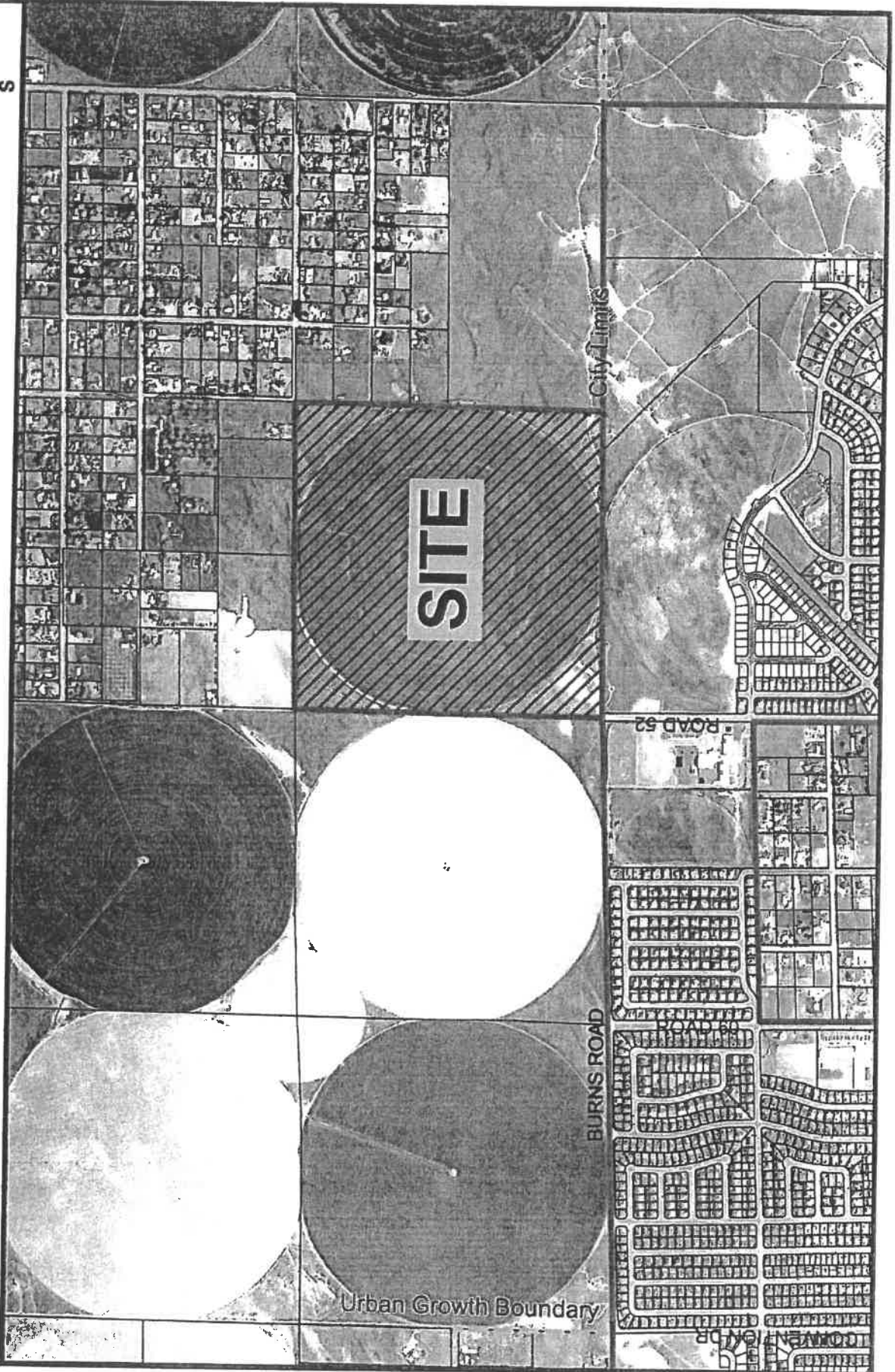
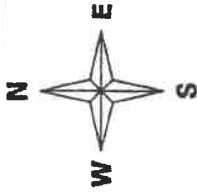
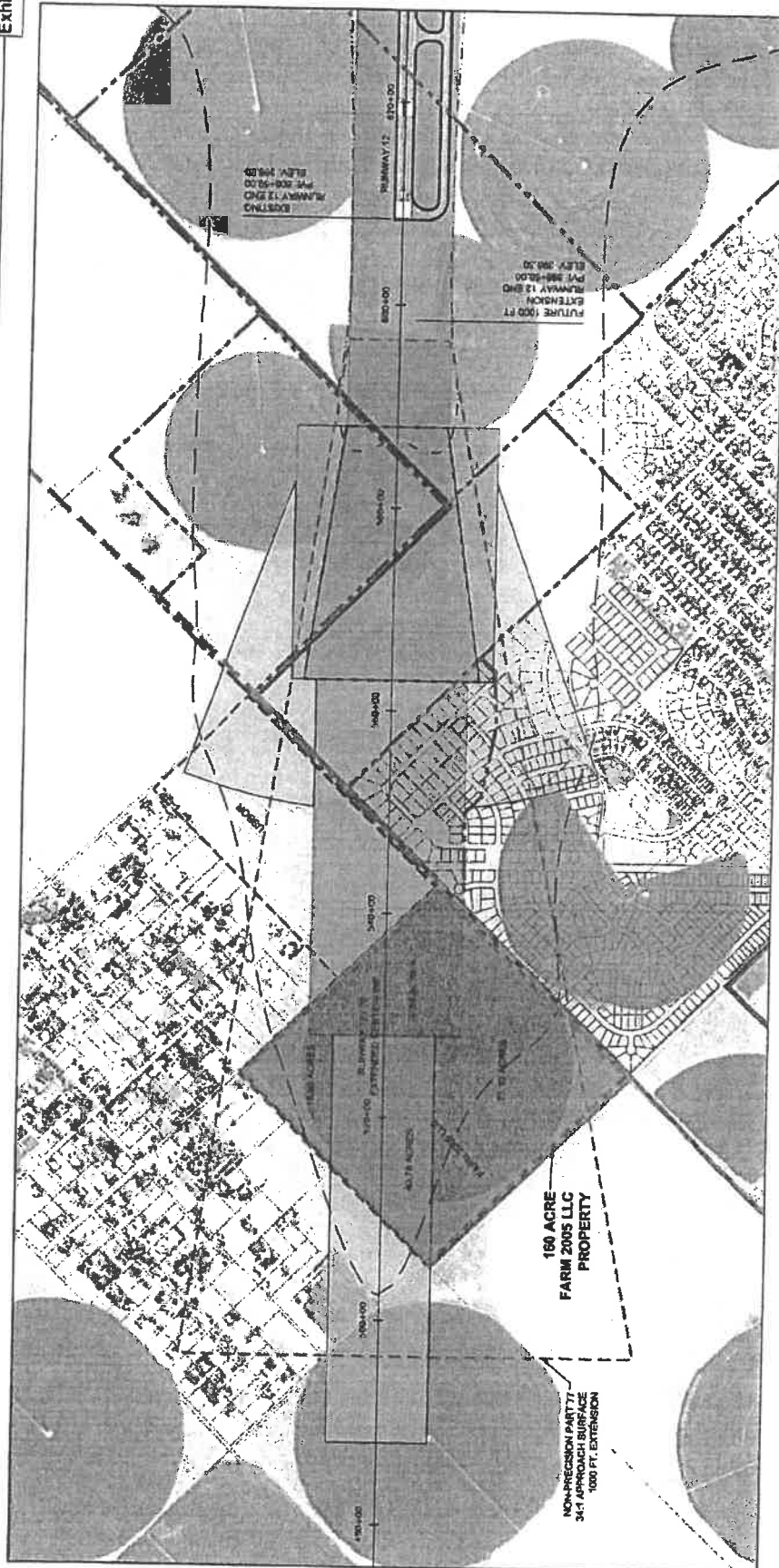


Exhibit #1



AIRPORT SAFETY COMPATIBILITY ZONES		
ZONE COLOR	ZONE #	FUTURE 1000 FT. EXTENSION ACREAGE
	ZONE 1	0
	ZONE 2	32.86
	ZONE 3	0
	ZONE 4	40.79

LEGEND	
EXISTING 1000 FT. EXTENSION	1000 FT. APPROACH SURFACE
EXISTING 1000 FT. EXTENSION	AIRPORT PROPERTY LINE
PASCO UGA	CITY OF PASCO
FUTURE 1000 FT. EXTENSION	FUTURE 1000 FT. EXTENSION

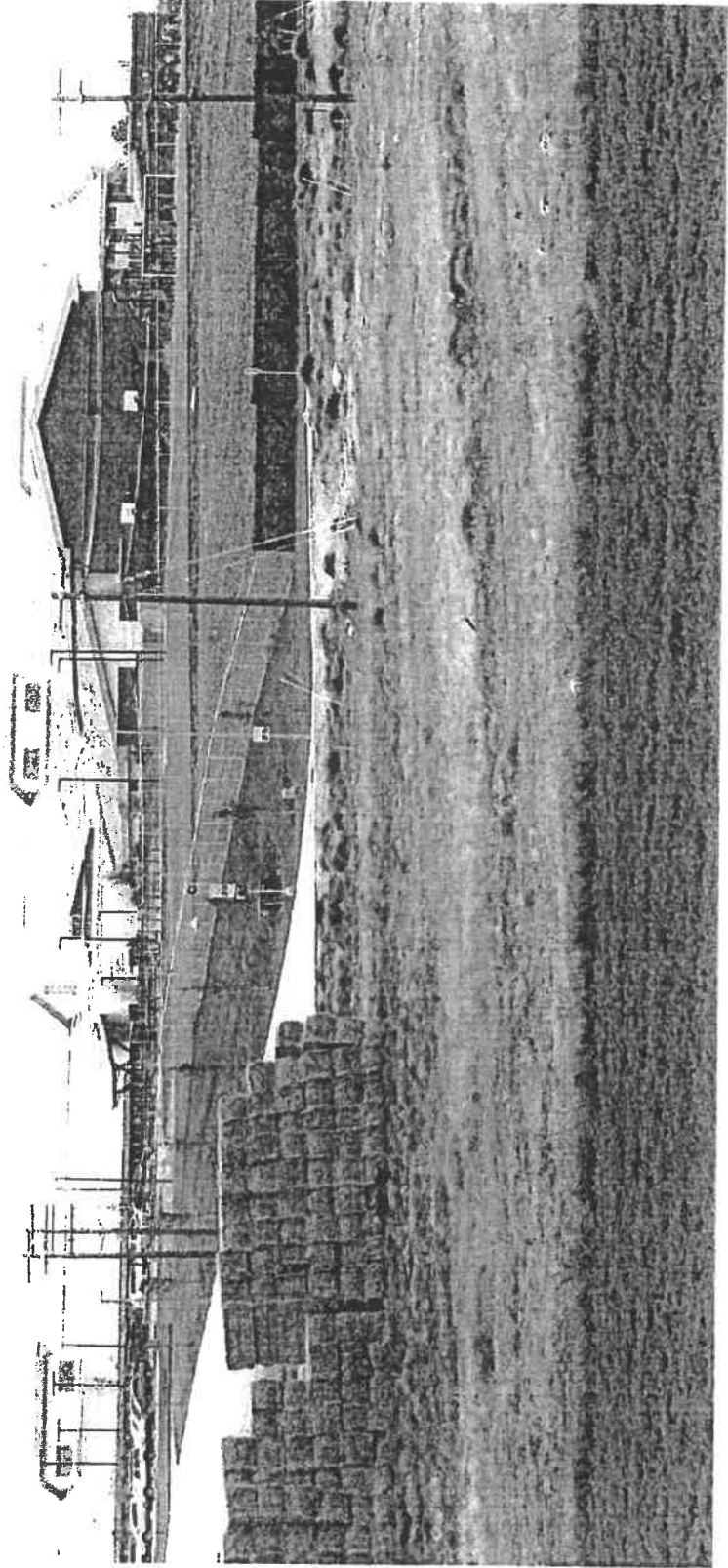
TRI-CITIES AIRPORT - RUNWAY 12 END PROPERTY ACQUISITION IMPACTS

SHEET: 1



JACK PETERSEN, INC.

View of Elementary School



ATTACHMENT B

CHAPTER 25.81 AIRPORT OVERLAY DISTRICT

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25.81.010 PURPOSE. The purpose of the Airport Overlay District is to protect the viability of the Tri-Cities Airport as a significant resource to the community by encouraging compatible land uses, densities and reducing hazards that may endanger the lives and property of the public and aviation users.

25.81.020 AIRPORT OVERLAY DISTRICT. There is hereby created an airport overlay district as identified in the map made a part hereof and labeled Tri-Cities Airport Future Part 77 Zones Map and the Airport Safety Compatibility Zones map, as established by the current Tri-Cities Airport Master Plan. All lands lying within the zones therein shown within the city limits of Pasco are subjected to the building and use restrictions within this chapter. This chapter shall be used in addition to and in combination with all other district and development regulations contained in this title. The Airport Authority shall be responsible for providing updated maps to the City coincident with 10 year updates to the Airport Master Plan. The Airport Overlay District classification identifies a series of imaginary surfaces and safety zones within the airport influence area that has historically been prone to hazards associated with aircraft and airports. This chapter is based on aircraft accident data from the National Transportation Safety Board (NTSB) and the Federal Aviation Regulations (FAR) Part 77 Imaginary Surfaces and the "Airports and Compatibility Land Use Guidebook" produced by the Washington State Department of Transportation Aviation Division. As the name implies, this classification is laid over the existing City of Pasco zoning districts to ensure that densities and land use requirements of the underlying zoning districts are consistent with the NTSB standards and provide for maximum protection to the public, health, safety and general welfare of the community and for those citizens working and residing within the airport influence area.

25.81.030 AUTHORITY. The legislature of the State of Washington through RCW 14.12 the "Airport Zoning Act" has given authority to local governments to adopt regulations within its jurisdiction to promote the public health, safety, and general welfare of its citizenry regarding airport hazards. RCW 36.70.547 requires every county, city, and

town in which there is located an airport to discourage the siting of incompatible uses adjacent to such aviation airport.

25.81.040 APPLICABILITY. The provisions of this chapter shall apply to all lands, buildings, structures, natural features or uses located within those areas that are defined by the Airport Overlay District and designated on the Tri-Cities Airport Part 77 Surfaces map which identifies areas of height limitations and the Airport Safety Compatibility Zones (ASCZ) map.

25.81.050 DEFINITIONS. The following terms shall have the meanings indicated, specific to this chapter only:

AIRPORT AUTHORITY: means the Port of Pasco

AIRPORT: The Tri-Cities Airport operated by the Port of Pasco including all property designated in the Tri-City Airport Master Plan as part of the airport.

AIRPORT ELEVATION: The highest point of an airport's useable landing area measured in feet from sea level. The Tri-Cities Airport is four hundred ten feet (410') above mean sea level.

AIRPORT INFLUENCE AREA: Includes airport property and all land within the Airport Safety Compatibility Zones 1 through 6 as described in PMC 25.81.090 and depicted in the Airport Safety Zones map adopted by PMC 25.81.020.

APPROACH SURFACE: An imaginary surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Chapter 25.81.060. The perimeter of the approach surface coincides with the perimeter of the approach zone.

CONICAL SURFACE: An imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand feet (4,000').

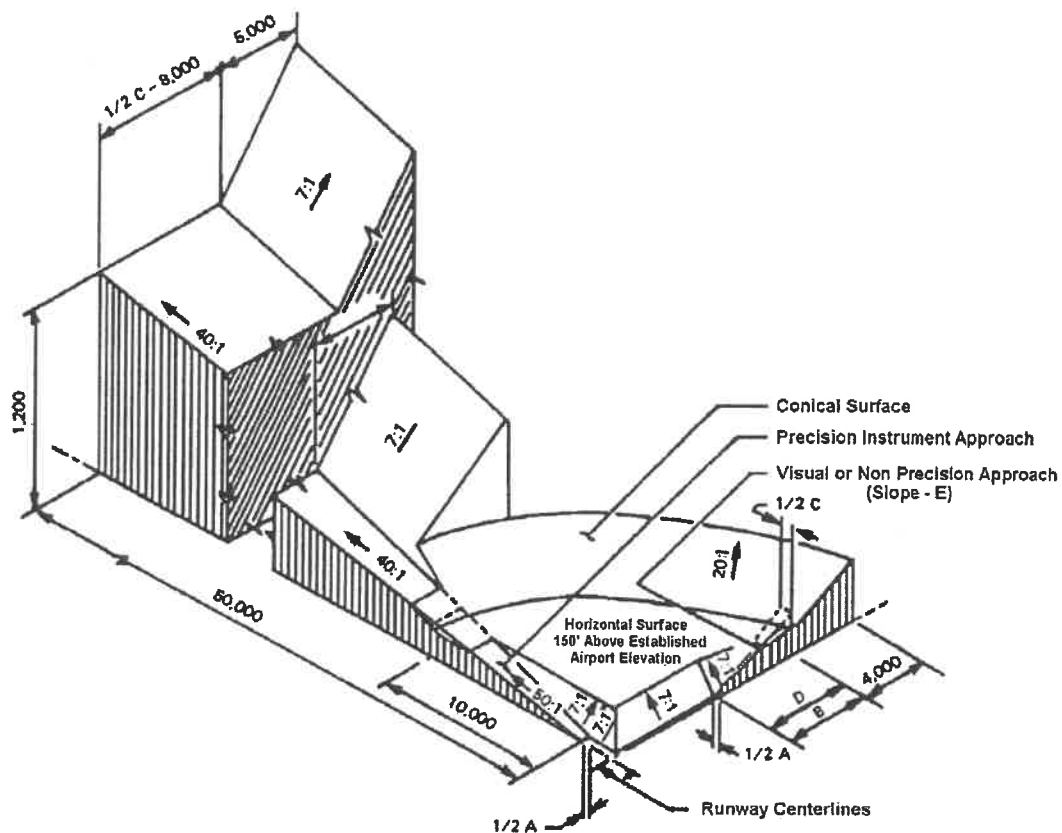
DEED NOTICE: A formal statement provided in 25.81.110 as a note on the face of a short plat, major subdivision or binding site plan or recorded against the property notifying potential property owners that the property is located adjacent to an active airport and said property may be impacted by aircraft noise, odors, vibration, and low flying aircraft.

FAA FORM 7460-1, NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION: A form which the Federal Aviation Administration requires to be completed by anyone who is proposing to construct or alter an object that could affect airspace

within the airport influence area and allows the FAA to conduct an airspace analysis to determine whether the object will adversely affect airspace or navigational aids.

FAR PART 77 SURFACES: The Part of 49 CFR of the Federal Aviation Regulations that deals with objects affecting navigable airspace.

FAR PART 77 ZONES: Imaginary airspace surfaces established with relation to each runway of an airport. There are five types of surfaces: (1) primary; (2) approach; (3) transitional; (4) horizontal; and (5) conical.



HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT: For the purpose of determining the height limits in all zones and as shown on the Tri-Cities Airport Future Part 77 Zones map, this datum shall be height above mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which plane coincides with the

inner perimeter of the conical surface. This is five hundred sixty feet (560') above mean sea level for the Tri-Cities Airport.

INFILL: Development on scattered vacant parcels of land which have remained vacant after the majority of development has occurred in an area.

OBSTRUCTION: Any object of natural growth, terrain, of permanent or temporary construction or alteration, including equipment or materials used therein which exceeds a limiting height set forth in Section 25.81.070.

OBJECT OF NATURAL GROWTH: Means a tree, shrub or similar organic or vegetative matter.

PRECISION APPROACH: A landing approach made without visual reference to the ground by the use of aircraft instruments and ground-based electronic or communications systems or devices. An aircraft making such an approach should be flying in accordance with an IFR (instrument flight rules) flight plan.

PRIMARY SURFACE: A surface longitudinally centered on a runway with a width of one thousand feet (1,000') for instrument approaches and five-hundred feet (500') for visual approaches. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet beyond each end of the runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The elevation of the Primary Surface at the Tri-Cities airport is four hundred ten feet (410') above mean sea level.

RUNWAY: A defined area on an airport prepared for landing and take-off of aircraft along its length.

TRANSITIONAL SURFACES: These imaginary surfaces extend outward at ninety-degree angles to the runway centerline, and runway centerline extended, at a slope of seven feet (7') horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect with the horizontal and conical surfaces.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan.

25.81.060 HEIGHT LIMITATION ZONES. The height limitation zones are hereby established, consistent with the FAR Part 77 Surfaces – Objects Affecting Navigable Airspace, and are described below.

(1) **PRECISION INSTRUMENT APPROACH ZONE.** Includes Runways 3L, 21R, 30. A precision instrument approach zone is established at each end of a precision instrument runway for instrument landings and takeoffs. The precision instrument approach zones shall have a width of one thousand feet (1,000') at a distance of two hundred feet (200') beyond each end of the runway, coinciding with the Primary Surface, widening thereafter uniformly to a width of sixteen thousand feet (16,000') at a distance of fifty thousand two hundred feet (50,200') beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(2) **NON-PRECISION INSTRUMENT APPROACH ZONE.** Includes Runway 12. A Non-Precision instrument approach zone is established at each end of a Non-Precision instrument runway for improved landings and takeoffs. The non-precision instrument approach zones shall have a width of five hundred feet (500') at a distance of two hundred feet (200') beyond each end of the runway, thereafter widening uniformly to a width of three thousand five hundred feet (3,500') at a distance of ten thousand two-hundred feet (10,200') beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(3) **VISUAL APPROACH ZONE.** Includes Runways 3R and 21L. A visual approach zone is established at each end of all visual runways for landings and takeoffs. The visual approach zones shall have a width of five hundred feet (500') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of one thousand five hundred (1,500) feet at a distance of five thousand two hundred feet (5,200') beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

(4) **TRANSITION ZONES.** Transition zones are hereby established adjacent to each instrument and non-instrument runway and approach zone as indicated on the Tri-Cities Airport Future Part 77 Zones map. Transition zones symmetrically located on either side of runways have variable widths as shown on the map. Transition zones extend outward from a line two hundred fifty feet (250') on either side of the centerline of the non-instrument runway, for the length of such runway plus two hundred feet (200') on each end; and five hundred feet (500') on either side of the centerline of the instrument runway, for the length of such runway plus two hundred feet (200') on each end, beginning at and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one foot vertically for each seven feet horizontally to the point where they intersect the surface of the horizontal zone. Further, transition zones are established adjacent to both instrument and non-instrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the Tri-Cities Airport Future Part 77 Zones map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one foot vertically for each seven feet horizontally to the points where they intersect the horizontal and conical surfaces. Additionally, transition zones are established adjacent to the instrument approach zone where it projects through and beyond the limits of the conical zone, extending a distance of five thousand feet measured horizontally from the edge of the

instrument approach zones at right angles to the continuation of the centerline of the runway.

(5) **HORIZONTAL ZONE.** A horizontal zone is hereby established as the area within a horizontal plane one hundred fifty feet (150') above the established airport elevation or at a height of five hundred sixty feet (560') above mean sea level, the perimeter of which is constructed by swinging arcs of ten thousand feet radii from the center of each end of the primary surface of each runway of the airport and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the instrument and non-instrument approach zones and the transition zones.

(6) **CONICAL ZONE.** A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a distance of four thousand feet. The conical zone does not include the instrument approach zones and transition zones.

25.81.070 HEIGHT LIMITATIONS. No building, pipe, chimney, tower, steeple, stand, platform, pole, wire or structure or erection or object of natural growth, or obstruction of any kind or nature whatsoever, shall be built, placed, hung, or permitted to grow or allowed to be built, placed or hung which shall at any point or part thereof exceed the heights as provided in the zones established herein. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail. The restrictions shall apply to the area surrounding all runways and approaches situated thereon. The owner of any existing nonconforming building, structure, or object of natural growth shall be required to permit the installation, operation, and maintenance thereon of any markers and lights as deemed necessary by the airport authority or the FAA to indicate to operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such height limitations are hereby established for each zone as follows:

(1) **Precision Instrument Approach Zone.** Beginning at the end of and at the same elevations as the Primary Surface, slopes one foot in height for each fifty feet (50:1) in horizontal distance and extending to a distance of ten thousand two hundred feet (10,200') from the end of the runway; thence one foot in height for each forty feet in horizontal distance to a point fifty thousand two hundred feet (50,200') from the end of the runway;

(2) **Non-Precision Instrument Approach Zone.** Beginning at the end of and at the same elevations as the Primary Surface, slopes one foot in height for each thirty-four feet (34:1) in horizontal distance and extending to a distance of ten thousand two hundred feet (10,200') from the end of the runway;

(3) **Visual Approach Zones.** Beginning at the end of and at the same elevation as the Primary Surface, slopes one foot in height for each twenty feet (20:1) in horizontal distance and extending to a point ten thousand two hundred feet (10,200') from the end of the runway;

(4) **Transition Zones.** Slopes outward one foot in height for each seven feet (7:1) in horizontal distance beginning at the Primary Surface, extend to a height of one hundred fifty feet (150') above the airport elevation which is four hundred ten feet (410') above mean sea level. In addition to the foregoing, there are established height limits of

one foot vertical height for each seven feet horizontal (7:1) distance measured from the edges of all approach zones for the entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the instrument approach zone projects through and beyond the conical zone, a height limit of one foot for each seven feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of five thousand feet (5,000') from the edge of the instrument approach zone measured normal to the centerline of the runway extended;

(5) Horizontal Zone. One hundred fifty feet (150') above the airport elevation or a height of five hundred sixty feet (560') above mean sea level;

(6) Conical Zone. Slopes outward one foot in height for each twenty feet (20:1) of horizontal distance beginning at the periphery of the horizontal zone, extend four thousand feet (4,000') to a height of three hundred fifty feet (350') above the airport elevation or a height of seven hundred sixty feet above mean sea level (760').

25.81.080 USE RESTRICTIONS.

(1) General Requirements: Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for operators of aircraft to distinguish between airport lights and others, result in glare in the eyes of operators of aircraft using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft.

(2) Lighting: No new or expanded industrial, commercial, recreational or residential use shall project lighting directly onto an existing runway, taxiway, or approach/departure surface except where necessary for safe air travel. Lighting for these uses shall incorporate shielding to reflect light away from the airport and shall not imitate airport lighting.

(3) Communications Facilities: Approval of cellular and other communications or transmission towers located within any zone described within section 25.81.060 shall be conditioned to require their removal within 90 days of discontinuance of use.

25.81.090 AIRPORT SAFETY COMPATIBILITY ZONES. Zones described below are shown in the Airport Safety Compatibility Zones (AS CZ) map with the prohibited land uses listed below in order to promote the general safety and welfare of properties surrounding the airport and the continued viability of the airport.

Zone 1 – Runway Protection Zone (RPZ): only airport uses and activities are allowed within the RPZ.

Zone 2 – Inner Approach/Departure Zone: Prohibited land uses within this zone are: residences except residential infill development is permitted south of I-182, places of public assembly such as churches, schools (K-12), colleges, hospitals; high density office, retail or service buildings; shopping centers and other uses with similar concentrations of persons. Production of asphalt paving and roofing materials or rock

crushing are also prohibited. Fuel storage facilities or the storage or use of significant amounts of materials which are explosive, flammable, toxic, corrosive, or otherwise exhibit hazardous characteristics shall not be located within the Inner Approach/Departure Zone. Hazardous wildlife attractants including waste disposal operations, water management and storm water facilities with above-ground water storage, and man-made wetlands shall not be allowed within the Inner Approach/Departure Zone. All new infill residential development must include the disclosure statement in Chapter 25.81.110 on plats, short plats and binding site plans.

Zone 3 – Inner Turning Zone: Prohibited land uses within this zone are schools (K-12) and hospitals. New residential development is prohibited unless it is infill residential development. All new infill residential development must include the disclosure statement in Chapter 25.81.110 on plats short plats and binding site plans.

Zone 4 – Outer Approach/Departure Zone: Prohibited land uses within this zone are: places of public assembly such as churches except existing churches shall be permitted to expand, schools (K-12), hospitals, shopping centers and other uses with similar concentrations of persons. Residential density is limited to RS-20 except south of I-182. All new residential development must include the disclosure statement in Chapter 25.81.110 on plats, short plat and binding site plans.

Zone 5 – Sideline Zone: Prohibited land uses within this zone are residences, except residences that are constructed to replace existing residences, of like size and type, damaged by fire and other causes, places of public assembly such as churches, schools, hospitals, shopping centers and other uses with similar concentrations of persons. Mining, including sand and gravel pits are prohibited in the Sideline Zone.

Zone 6 – Traffic Pattern Zone: Prohibited land uses within this zone are new schools (K-12), hospitals and other uses with similar concentrations of persons. Replacement or expansion of existing schools is permitted. All new residential developments must include the disclosure statement in Chapter 25.81.110 on plats, short plats and binding site plans.

Use Interpretations – Appendix F of the January 2011 WSDOT Airport and Compatible Land Use Guidebook as amended may be used as a guide to determine uses with similar concentrations of persons as referenced in Compatibility Zones.

25.81.110 GENERAL REVIEW PROCEDURES. No use, building, structure, or development activity shall be permitted, established, altered or relocated by any person except as otherwise authorized by this chapter. All permit applications within the Airport Overlay District shall, in addition to being reviewed through the standard development review process, be subject to the following:

- A. All developments, permits or plats with proposed buildings and/or structures found to be within twenty feet (20') of any of the height limitation zone described in 25.81.070 and/or all buildings and structures over two hundred feet (200') in height must submit a site plan, building elevations and an FAA Form 7460-1 to the Port of Pasco Administrative Office for Port and FAA review and approval. Upon review, further documentation shall be required, if more

accurate data is necessary for a determination of impact including detailed surveys by a licensed land surveyor.

- B. All developments, permits or plats falling within the ASCZs described in 25.81.090 associated with special use permits, variances or existing non-conforming uses must also submit a site plan to the Port of Pasco Administrative Office for Port review.
- C. All applications for Comprehensive Plan amendments and rezones falling within the ASCZs described in 25.81.090 shall be forwarded to the Port of Pasco Administrative Office for Port review prior to any required public hearing.

25.81.120 DISCLOSURE. To all extents possible, property owners and potential property buyers should be made aware of the following disclosure. The disclosure statement shall be listed on all approved subdivision plats, short plats and binding site plans within any of the identified zones in section 25.81.060 or 25.81.090.

"Property within this (plat/short plat or binding site plan) may be subject to varying noise levels and vibrations due to proximity to the Tri-Cities Airport. Properties near the airport may be located within height and use restriction zones as described and illustrated by Federal standards and regulations and the City of Pasco Zoning Regulations. There is the potential that standard flight patterns will result in aircraft passing over the properties at low altitudes and during all hours of the day. Future airport expansion including runway extensions may impact the size and number of aircraft utilizing the airport. Developments near the airport should assume that at any given time there will be some impact from air traffic." (Ord. 4111, 2013.)

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601 W. Riverside, Suite 1900
Spokane, Washington 99201-0695

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Fax: (509) 838-1416
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Winston & Cshatt
L A W Y E R S

A Professional Service Corporation

*Winston & Cshatt has offices in Spokane, Washington
and Coeur d'Alene, Idaho*

May 11, 2018

City of Pasco
Planning Commission
Attn: Dave McDonald, City Planner
Second Floor
525 N. Third Ave.
Pasco, WA 99301

Re: Pasco Urban Growth Area Amendment-2018

Dear Commissioners:

I represent the Port of Pasco and Tri-Cities Airport (collectively "Port"). As you likely recall, the Port has opposed the inclusion of 160 acres of property owned by Farm 2005 LLC, Parcel No. 114-250-016 ("Property") in Pasco's Urban Growth Area (UGA). Previous applications were made as site specific amendments to the UGA. The matter presently before you is the 2018 Comprehensive Plan Update – Urban Growth Boundary (MF# CPA 2017-001), which proposes significant expansion of Pasco's UGA, including the Property. The Port continues to oppose inclusion of the Property as such would permit incompatible land uses to be situated too near the airport and within the Airport Safety Compatibility Zones.¹

Washington law is clear:

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport.

¹ This letter provides a summary of some of the legal considerations the Commission is expected to face in regard to the Property as it relates to Pasco's UGA. This is not an exhaustive analysis and the Port reserves the right to supplement this letter and provide additional comment and analysis to the Planning Commission, and the other legislative bodies that will consider this matter.

C. Matthew Andersen ^{WA}
Beverly L. Anderson
Patrick J. Cronin ^{WA}
Kevin J. Curtis
Darren M. Digiacinto ^{WA}
Timothy R. Fischer ^{WA}
David P. Gardner ^{WA, MT}

Scott A. Gingras ^{WA, MT}
Erika B. Grubbs ^{WA}
Natasha L. Hill ^{CA}
Michael T. Howard ^{WA}
Collette C. Leland ^{WA}
Lisa A. Malpass ^{WA}
Benjamin H. Rascoff ^{WA}

Jeffrey R. Ropp
Gabrielle C. Roth
Kammi Mencke Smith ^{WA}
Jenna M.K. Strohmeyer ^{WA, PA}
Elizabeth A. Tellessen ^{WA}
Nicholas R. Ulrich
Molly M. Winston ^{WA}

Of Counsel
Courtney R. Beaudoin
Greg M. Devlin ^{WA}
Stephen L. Farnell
Kenneth B. Howard ^{WA}

Carl E. Hueber
Nancy L. Isserlis
Fred C. Pilanz
Richard W. Relyea
Lucinda S. Whaley

May 11, 2018
Page 2

RCW 36.70.547 (emphasis added). It is widely recognized that “[d]evelopment of incompatible land uses can degrade airport operations, impede airport expansion, and reduce quality of life for airport neighbors.” *WSDOT Airports and Compatible Land Use Guidebook*, M3074.00, p. iii, January 2011. “Ultimately, incompatible development reduces opportunity for economic development, reduces transportation access, reduces the value of public investment in airport infrastructure, and reduces quality of life for communities.” *Id.* at p. v.

The Tri-Cities Airport is a general aviation airport and transportation facility of local, statewide and regional significance. Thus, it is the City’s obligation, and the obligation of the Commission to discourage incompatible residential development from being sited near the airport. The proposed expansion of the UGA is contrary to the statutory obligation set out in RCW 36.70.547.

The Port, Washington State Department of Transportation (WSDOT), and Department of Commerce agree—urban development on the Property is incompatible with the airport. The Port adopted Resolution No. 1444, finding residential development is incompatible with the airport. WSDOT previously submitted a letter advising against inclusion of the Property in the UGA, and recommended:

Local jurisdictions practice a philosophy of “do no more harm” in regards [sic] to aviation land-use compatibility planning. Existing conditions should be maintained or improved to prevent future incompatible development.

The current zoning designation of agricultural is generally considered compatible with the airport operations.

Residential development is generally incompatible near airports because of noise, safety, fumes, vibration, light and perception of low-flying aircraft.

(*Timmerman*, February 27, 2017 (emphasis added)). Moreover, the Department of Commerce has stated that it has “serious concerns regarding encroachment and incompatible land uses adjacent to the Tri-Cities Airport.” (*Simpson*, February 6, 2018).

The City has recommended inclusion of the Property in the UGA under the guise that the City’s Airport Overlay District, PMC Chapter 25.81 allows urban development near the airport. Make no mistake, PMC 25.81 does not make urban development compatible with the airport. The authorities agree that the urban development, which would be permitted on the Property if included within the UGA, is incompatible. Not only is it incompatible, but it is a detriment to the viability of the airport, and the public investment that has been made.

When PMC 25.81 was adopted in 2012 it was applicable to land that was already developed, or entitled to be developed. In one instance, the adoption of PMC 25.81 resulted in a down zone of property entitled for development at a density in excess of what PMC 25.81 allowed. This adoption in essence resulted in a regulatory taking, causing the Port to have to purchase the

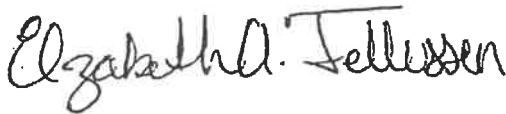
May 11, 2018
Page 3

affected property. But, there is no taking in this instance. The private property interests of the owner do not include a right to have the Property included in the UGA.

A regulatory taking does not exist unless a regulation deprives an owner of all economically viable uses of the property. Guimont v. Clarke, 121 Wn.2d 586, 602, 854 P.2d 1 (1993) (emphasis added). There is no taking where a landowner maintains the ability to make some economically viable use of the property. Id.; and see Jones v. King County, 74 Wn. App. 467, 874 P.2d 853 (1994). Further, there is no taking where the regulation safeguards the public interest. Guimont, 121 Wn.2d at 601. While the City may favor the owner's desire to develop the Property, such does not establish a vested right to develop an incompatible land use near the airport, particularly where the desired use is not presently allowed. Further, the City cannot place the owner's individual interest over the public's interest and ignore RCW 36.70.547's directive.

The Commission has a substantial task before it, to plan for Pasco's future. There are a variety of considerations that must be weighed. However, as it relates to the Property and the incompatibility of urban development with the airport, the answer is simple, urban development of the Property is incompatible and must not be included in the UGA.

Very truly yours,



ELIZABETH A. TELLESSEN

EAT:eat

Enclosures

cc: Randy Hayden, Port of Pasco
Buck Taft, Tri Cities Airport Port of Pasco
Patrick Wright, WSDOT
Nicole Stickney, Franklin County

RESOLUTION NO. 1444

A RESOLUTION OF THE PORT OF PASCO, SUPPORTING COMPATIBLE LAND USE PLANNING TO ENABLE FUTURE GROWTH OF THE TRI-CITIES AIRPORT

WHEREAS, the Port of Pasco owns and operates the Tri-Cities Airport, the fourth largest commercial airport in the State of Washington serving the Tri-Cities region along with a large portion of southeast Washington and northeast Oregon; and

WHEREAS, the number of enplaned passengers, frequency of flights, and size of aircraft at the Tri-Cities Airport has consistently increased and is expected to continue increasing into the future; and

WHEREAS, runway 12/30 to the northwest of the airport is the only runway which can be extended to accommodate larger aircraft; and

WHEREAS, the FAA encourages strong land use protections to accommodate future airport growth; and

WHEREAS, the Washington State Growth Management Act requires towns, cities, and counties to discourage development of incompatible land uses adjacent to public use airports through adoption of comprehensive plan policies and development regulations; and

WHEREAS, the current county zoning designation of agricultural is generally considered compatible with the airport operations; and

WHEREAS, residential development is generally incompatible near airports because of noise, safety, fumes, vibration, light and perception of low-flying aircraft; and

WHEREAS, there is currently a request to add an additional 160 acres to the City of Pasco's Urban Growth Area (UGA), potentially for new residential development; and

WHEREAS, the modification to residential could result in the airport being prevented from an expansion that would accommodate larger aircraft and growth of the airport; and

WHEREAS, approximately 74 acres of the requested UGA expansion falls within airport safety compatibility zones 2 and 4 as referenced in both the City of Pasco and Franklin County Airport Overlay Zoning Codes.

NOW, THEREFORE, the Port of Pasco Commission wishes to express the following recommendations on the 160-acre UGA expansion request:

- 1) Under no circumstances should that portion of the land falling within Airport Safety Compatibility Zones 2 and 4 be added to the City of Pasco UGA for residential development; and
- 2) The Port would prefer that the entire 160-acres remain outside of the City UGA to reduce future conflicts between residences and aircraft operations.

BE IT RESOLVED, that copies of this Resolution be immediately transmitted to the City of Pasco, Franklin County, and the Washington State Department of Transportation Aviation Division.

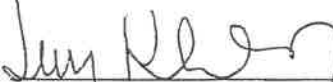
ADOPTED this 8th day of December, 2016

PORT OF PASCO COMMISSIONERS

Ronald P. Reimann, President



Jean Ryckman, Vice President



James T. Klindworth, Secretary



Washington State
Department of Transportation

Aviation Division
7702 Terminal St SW
Tumwater, WA 98501
360-709-8018 / FAX: 360-709-3009
Toll Free: 1-800-552-0868
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 27, 2016

Dave McDonald, City Planner
Community & Economic Development Department
525 N. 3rd Avenue
Pasco, WA 99301

RECEIVED
FEB 27 2017
COMMUNITY & ECONOMIC DEVELOPMENT

RE: Urban Growth Area (UGA) Boundary Amendment

Dear Mr. McDonald:

This correspondence is to confirm that the City of Pasco has formally consulted with the Washington State Department of Transportation (WSDOT) Aviation Division regarding a proposed amendment to the UGA boundary to add 160 acres. WSDOT appreciates the City's efforts and recognizes the substantial time and resources this represents.

RCW 36.70.547 and 36.70A.510 requires local jurisdictions to formally consult with airport owners, managers, private airport operators, general aviation pilots, ports, and the Aviation Division of WSDOT prior to adoption of comprehensive plan policies or development regulations that may affect property adjacent to public use airports. The main goals of formal consultation are to avoid, minimize, and resolve potential land use conflicts with airports through the comprehensive plan and development regulations. WSDOT strongly recommends that formal consultation be initiated by local jurisdictions as early as possible in the planning process. This is to assure that all parties have an opportunity to work together to find comprehensive solutions of mutual benefit that fulfill the intent of the legislation, consistent with local jurisdictions' land use planning authorities and obligations under law.

The following is a general summary of observations and recommendations discussed during the formal consultation meeting:

- WSDOT Aviation recommends that the project record be reopened, so information about the airport and its operations can be included for decision makers.
- The subject property falls directly in the approach to Tri-Cities Airport's

Urban Growth Area Boundary Amendment
February 27, 2016
Page 2

primary runway 12.

- Tri-Cities Airport anticipates extending runway 12 by 1800 feet.
- The commercial service airport is home to over 120 based, jet, twin-engine business aircraft, helicopter, single-engine and experimental aircraft.
- In the past five years, the number of enplanements at the airport has increased by nearly 100,000, which represents both the continued vibrancy of the region and the growing flight service available at the airport.
- Encroachment of incompatible development is cumulative and temporal in nature. This slowly erodes the utility of the aviation facility and the public investment made in it.
- The City of Pasco should evaluate all proposed amendments to the UGA, comprehensive plan and capital facilities plan that will increase incompatible land uses or potential of incompatible development adjacent to the airport.
- WSDOT recommends that local jurisdictions practice a philosophy of "do no more harm" in regards to aviation land-use compatibility planning. Existing conditions should be maintained or improved to prevent future incompatible development.
- The current zoning designation of agricultural is generally considered compatible with the airport operations.
- Residential development is generally incompatible near airports because of noise, safety, fumes, vibration, light and perception of low-flying aircraft.
- WSDOT Aviation is available for further consultation.

The importance of Tri-Cities Airport to the region and state's transportation system cannot be overstated. It is critical that every effort be made to discourage incompatible land uses that impair the airport's ability to operate as an essential public facility. We thank you again for the opportunity to comment and remain available to provide technical assistance. Please don't hesitate to contact me at 360-709-6809 or timmerc@wsdot.wa.gov if you have any questions.

Sincerely,



Urban Growth Area Boundary Amendment
February 27, 2016
Page 2

Carter Timmerman
Aviation Planner

cc: Warren Hendrickson, Northwest Mountain Regional Manager, AOPA
Jim Posner, Washington Pilots Association WPA



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

February 6, 2018

Mr. Loren Wiltse
1016 N. 4th Avenue
Pasco, Washington 99301

RE: Proposed amendment to the City of Pasco's Urban Growth Area (UGA) boundary designated in the Franklin County Comprehensive Plan

Dear Mr. Wiltse:

Thank you for the opportunity to comment on the proposed amendment to the Franklin County Comprehensive Plan. We received materials associated with this proposal on December 22, 2017 and processed the proposal with Material ID # 24484. We appreciate the County's continued coordination with our agency regarding our recommendations for adjusting UGA boundaries. We provided a letter, dated December 11, 2017, which describes general recommendations for UGA amendments. We also submitted a letter to Franklin County on July 8, 2015 in which we recommended the City and County consider a similar proposal as part of the periodic update of your respective Comprehensive Plans.

The City of Pasco's proposal requests an addition of 163 acres to the Pasco UGA for a Comprehensive Plan Land Use Designation of Low-Density Residential. We have procedural and substantive concerns about the application. We encourage you to consider the following prior to making a final recommendation to the Board of County Commissioners.

- We continue to have serious concerns regarding encroachment and incompatible land uses adjacent to the Tri-Cities Airport. The Tri-Cities Airport represents a significant investment of public funds, and is a critical component of the local and regional economy. The cumulative impacts of residential development in the proposed UGA expansion area could have detrimental effects on a vital component of the region and state's transportation system. We encourage the Board of County Commissioners to, once again, review whether the proposal is in the best interest of the whole community.

UGA expansions should only be considered after a review of alternative measures to accommodate projected growth. As we recommended in our previous letters to the County, the periodic review required by RCW 36.70A.130(5)(d) is the most appropriate time to consider these proposed amendments. The City's consultation on February 7, 2017 with the Washington State Department of Transportation (WSDOT), the Port of Pasco, and other aviation stakeholders revealed concerns about how residential development in the proposed expansion area is incompatible because of concerns over noise, safety, fumes, vibration, light, and low-flying aircrafts.

While the current, agricultural use of the property is likely the most compatible land use alternative for airport operations, we understand that the region is experiencing growth pressures. Should the City and County determine that future urban growth is necessary in this area, we strongly encourage closer coordination with the Port of Pasco, WSDOT aviation, and other aviation stakeholders. Additional

Mr. Loren Wiltse
February 6, 2018
Page 2

collaboration may reveal a use that meets the City's need to accommodate new urban growth, such as commercial or industrial, but is more compatible than new residential development.

- Our agency shares the City of Pasco's concerns about the need for affordable housing. The application, however, fails to clarify how adding a limited number of large-lot single family residences will actually impact housing affordability in the County. Of particular concern is the fact that, due to development constraints on the site, the site will only allow for 147 to 294 units of housing. This equates to development that ranges roughly between 1-2 units per acre. This does not appear to meet the requirements to ensure the UGA is developing at urban densities,¹ and provides additional support for considering other alternatives to including this particular site in the UGA for low-density development.
- The justification for the UGA expansion changed significantly during the review process. The City's original application, which was first transmitted formally to our agency prior to the WSDOT consultation meeting on February 7, 2017, used a 2038 population projection that the City selected without consulting the County. The City's revised application attempts to justify the need for an expansion based on existing growth figures and a horizon of 2008 to 2028. The fact that the City and County are currently reviewing new growth as part of the periodic update, raises concerns about how this proposal ties in to that process and whether, if approved, this proposal meets the GMA's public participation requirements.²
- The City's Buildable Lands Analysis does not consider the entire Pasco UGA. A land capacity analysis should evaluate the existing city limits and unincorporated portions of the UGA. The application includes an analysis of the 1,132 acres added to the Pasco UGA during the 2008 Comprehensive Plan update.

The GMA requires local governments to determine how much land should be included in the UGA to accommodate expected urban development based on the OFM population projection.³ Local governments must then determine which lands in particular should be included within UGAs according to the locational criteria in RCW 36.70A.110(3). Growth should be located first in areas already characterized by urban growth with existing services and the capacity to serve new development. Growth should then be considered and located in areas with existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Growth should next be located in remaining portions of the existing UGA.

- In our letter to the County dated July 8, 2015 we described the requirements regarding changes to the UGA and the necessity for underlying amendments to capital facilities and transportation elements. The City's supplemental application does not include the requisite amendments and claims that an update to the Capital Facilities Plan is not required. We disagree. The Growth Management Act (GMA) requirements for capital facilities and transportation infrastructure are based on an understanding that infrastructure represents a significant investment and a long-term liability. Operation, maintenance, and future replacement costs of that infrastructure must be carefully considered in the planning process, and communities should attempt to build infrastructure that has a positive return on investment.

The GMA requires that any proposed expansion must be accompanied by amendments to the capital facilities and transportation elements that show a financially realistic strategy to provide the proposed area with adequate public facilities.⁴ These amendments must address, at a minimum, the required components of the capital facilities and transportation elements in RCW 36.70A.070. Updates to these plans, with the services needed for an expanded UGA, will ensure the City of Pasco maintains a healthy

¹ RCW 36.70A.110 and WAC 365-196-300

² RCW 36.70A.140

³ RCW 36.70A.110(1) and RCW 36.70A.115(1)

⁴ WAC 365-196-320(3)

Mr. Loren Wiltse
February 6, 2018
Page 3

capital facilities budget and does not over-extend its fiscal capabilities for providing urban services with a financial plan that is acceptable to the community.

Based on information in the City's application, concerns over residential land consumption are directly related to development for non-residential purposes. This includes purchases by the Port of Pasco to support economic development, and purchases by the Pasco School District for new schools and community facilities. As the City and County consider development capacity and potential amendments to the Pasco UGA in upcoming Comprehensive Plan reviews, we encourage planning for land beyond that needed for residential. The City and County should be proactively working with local school districts, fire districts, municipal departments, economic development associations, and other important institutional stakeholders to ensure the UGA has sufficient areas to accommodate the broad range of needs accompanying projected growth. This growth may include medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.⁵

The County is currently coordinating on updated growth projections and reviews UGAs as part of the 2018 periodic update required by RCW 36.70A.130(5)(d). This is the appropriate process within which to consider changes to the UGA. However, given the site constraints and the potential impacts on the Tri-Cities Airport, we believe this should be one of the last alternatives you consider for residential development.

We extend our continued support to Franklin County in achieving the goals of the GMA and the vision of your community. Thank you again for the opportunity to comment. If you have any questions or would like technical assistance on any land use issues, please feel free to contact me at william.simpson@commerce.wa.gov or 509-280-3602.

Sincerely,



William Simpson, AICP
Senior Planner
Growth Management Services

WS:lw

cc: Dave McDonald, City Planner, City of Pasco
Rick White, Community and Economic Development Director, City of Pasco
Randy Hayden, Executive Director, Port of Pasco
Patrick Wright, Aviation Planner, WSDOT
Mark McCaskill, AICP, Managing Director, Growth Management Services
David Andersen, AICP, Eastern Region Manager, Growth Management Services
Ike Nwankwo, Western Region Manager, Growth Management Services

Enc: Letter from Commerce dated July 8, 2015
Letter from Commerce dated December 22, 2017

⁵ RCW 36.70A.110(2)

Land Use Stakeholders Meeting

Urban Growth Boundary

May 8, 2018

Present:

Patrick Wright, WSDOT AVN (PW)

Marjy Leggett, AOPA ASN (ML)

David McDonald, City of Pasco (DM)

Roger Black, local pilot (RB)

Bob Ransom, local pilot (BR)

Don Faley, Port of Pasco (DF)

Mitch Hooper, Mead & Hunt (MH)

Buck Taft, Port of Pasco (BT)

Elizabeth Tellessen, Winston & Cashatt (ET)

Randy Hayden, Port of Pasco (RH)

Nicole Stickney, Franklin County (NS)

Tara White, Port of Pasco (TW)

1:45 pm

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Adjourned 2:42 pm.



May 11, 2018

City of Pasco Planning Commission and
Mr. Rick White, Community and Economic Development Director
City of Pasco
525 N 3rd
Pasco, WA 99301

Tri-Cities Airport Administrative Office
Phone: 509.547.6352
Fax: 509.547.9040
tri-citiesairport@portofpasco.org
3601 N. 20th Avenue
Pasco, Washington U.S.A. 99301

Port Commissioners
Jean Ryckman
James T. Klindworth
Vicki Gordon

Director of Airports
Buck Taft

Re: Comprehensive Plan Amendment to Modify the Urban Growth Boundary Near the Tri-Cities Airport

Honorable Planning Commission,

Thank you for the opportunity to comment on your proposed update to the City of Pasco Urban Growth Boundary (UGB). Overall, we are in agreement with the City's proposal for expanding the UGA to accommodate future growth planned for the City of Pasco. We are in a dynamic, thriving community and it is exciting to see plan for the changes ahead.

However, for the long term protection of our regional airport and air services into the Tri-Cities, the Port would request that land to the northwest of the airport remain in the County to reduce future conflicts between residences and aircraft operations (see 160-acre pink dashed area on attached figure). Stating the obvious, there will be low flying aircraft arriving and departing above the subject parcel which is incompatible with residential development.

For safety purposes, the Port would strongly recommend that only compatible development be permitted under the runway approaches to the airport, shown as Zones 2 and 4 on the figure. These zones and others were added to the Pasco Zoning code in 2012-13 as an Airport Overlay District, based upon guidance provided by the Washington State Department of Transportation's (WSDOT) "Airports and Compatible Land-Use Guidebook."

As part of the City's Airport Overlay District, it was agreed that no residential development would be allowed in Zone 2. With respect to Zone 4, however, some modifications to the WSDOT guidelines were agreed upon because of existing development already built out under other runway approaches. These modifications to the WSDOT guidelines should not be applied to undeveloped ground, however, particularly ground that is presently outside the current Urban Growth Boundary.

In the County code, Zone 4 allows only 4 residential units per 20 acres with clustering preferred. This type of development conforms with the WSDOT compatibility guidelines. In the City code, Zone 4 allows up to 2 residential units per acre, which is much higher than WSDOT recommends. Clearly the zoning allowed in the County is more compatible and is in compliance with the WSDOT recommended guidelines. Leaving the property outside of the City UGB maintains the present compatible uses.

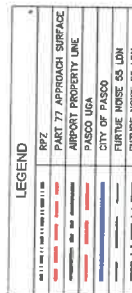
Along with safety concerns, we are also concerned that adding the subject parcel to the UGA would introduce inherent conflicts between aircraft operations and residential quality of life, including effects of aircraft noise, vibration, fumes, etc. In prior applications to add this parcel to the UGA, WSDOT commented "do no more harm" with regard to adding higher residential development than permitted by the County. Similarly, the Department of Commerce expressed serious concerns regarding urban residential encroachment and incompatible land uses near the airport runway. We agree with these comments and request that the City promote thoughtful and well-reasoned planning by keeping the entire parcel outside of the UGA. We are in the fortunate position of having an existing use in the County that is entirely compatible with airport operations and future growth. The City would be wise to preserve this land use while it has the opportunity to do so.





Thank you for your consideration.



Buck Taft, Director
Tri-Cities Airport
Port of Pasco

Exhibit Attached



AIRPORT SAFETY COMPATIBILITY ZONES FUTURE 1850 FEET EXTENSION		
ZONE COLOR	ZONE #	FARM 2005 LLC ACREAGE
	ZONE 1	0
	ZONE 2	32.66
	ZONE 3	0
	ZONE 4	40.3



LAST UPDATED: 4/2014



TRI-CITIES AIRPORT - RUNWAY 12 END
PROPERTY ACQUISITION IMPACTS

SHEET:

7



**Washington State
Department of Transportation**

Aviation Division
7702 Terminal St SW
Tumwater, WA 98501
360-709-8015 / FAX: 360-709-8009
Toll Free: 1-800-552-0666
TTY: 1-800-833-6388
www.wsdot.wa.gov

May 10, 2018

Dave McDonald, City Planner
Community and Economic Development Department
525 N. Third Ave.
Pasco, WA 99301

RE: Pasco's Proposed Expansion of the Urban Growth Boundary (UGB) 160 acres
North West of the Tri-Cities Airport

Dear Mr. McDonald,

Thank you for the opportunity to conduct an official Land Use Consultation with representatives from the City of Pasco regarding the expansion of the UGB that is proposed North West (160 Acres Farm 2005 LLC – Attachment A) of the Tri-Cities Airport. The Washington State Department of Transportation (WSDOT) is concerned that the proposed expansion, if approved in its current form, would allow incompatible development adjacent to the Airport and would impeded future development and extension of Runway 12/30.

WSDOT's Airport Land Use Compatibility Program addresses elements of safety, airspace hazards, noise and land use in relation to public use airports. WSDOT is primarily concerned with the safety and compatibility of placing incompatible development adjacent to the airport and within the airport operating environment.

WSDOT feels that the cumulative impacts of residential development in the proposed UGA expansion area could have detrimental effects on a vital component of the region and state's transportation system. UGA expansion in this area should only be considered after a review of alternative measures to accommodate projected growth.

The Growth Management Act (GMA) recognizes public use general aviation airports as essential public facilities and requires cities and counties to **discourage** incompatible land uses adjacent to them through their comprehensive plan policies and development regulations (RCW 36.70.547 and RCW 36.70A.200). The encroachment of incompatible land uses upon Washington state airports diminishes their ability to function as essential public facilities and often leads to operational impacts and closures.

As a condition of approval and after all other alternatives have been exhausted and deemed unachievable, WSDOT would recommend to the City of Pasco:

- 1) Adopt the Airport Compatibility Zoning structure and recommended development guidelines around the Tri-Cities Airport as outlined in the WSDOT Airports and Compatible Land Use Guide for inclusion into the city's comprehensive plan and development regulations.
- 2) Ensure all residential structures in the proposed 160 acres of the UGA are constructed as far away as possible from the extended runway centerline (Zone 2 and Zone 4). The majority of off-airport property aircraft accidents occur along the extended runway centerline.
- 3) All proposed stormwater facilities shall meet both the FAA's and WSDOT's best management practices for aviation related stormwater facilities. Wildlife strikes pose great threats to pilots and aircraft in the United States.
- 4) All structures built within the 160 acres will remain clear of man-made and naturally occurring objects that penetrate the FAA's FAR Part 77 'Imaginary Airspace Surfaces of Tri-Cities Airport.
- 5) A notice shall be placed on titles for all lots within the 160 acre UGA that states that "The subject property is located adjacent to Tri-Cities Airport and may be impacted from a variety of aviation activities. Such activities may include but are not limited to noise, vibration, odors, hours of operation, low overhead flights and other associated activities."

Again, I appreciate the opportunity to offer written comments and am available for any questions or concerns you may have. Please don't hesitate to contact me at 360-709-8019 or wrightp@wsdot.wa.gov.

Sincerely,



Patrick T. O. Wright
WSDOT Aviation Division

Attachment A: Tri-Cities Airport Map with WSDOT Airport Compatibility Zones

Figure 1



Airport Consultation Meeting RCW 36.70a.510

Land Use Stakeholders Meeting

Urban Growth Boundary

May 8, 2018

Present:

Patrick Wright, WSDOT AVN (PW)

Marjy Leggett, AOPA ASN (ML)

David McDonald, City of Pasco (DM)

Roger Black, local pilot (RB)

Bob Ransom, local pilot (BR)

Don Faley, Port of Pasco (DF)

Mitch Hooper, Mead & Hunt (MH)

Buck Taft, Port of Pasco (BT)

Elizabeth Tellessen, Winston & Cashatt (ET)

Randy Hayden, Port of Pasco (RH)

Nicole Stickney, Franklin County (NS)

Tara White, Port of Pasco (TW)

1:45 pm

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Adjourned 2:42 pm.

May 29th, 2018

Franklin County Commissioners
1016 N 4th Ave.
Pasco, WA. 99301

RECEIVED

JUN 01 2018

COMMUNITY & ECONOMIC DEVELOPMENT

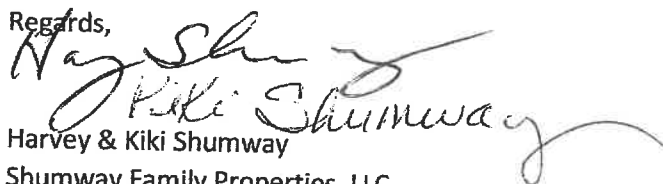
To: Franklin County Commissioners,

We recently attended the Pasco Urban Growth public hearing on May 18th, 2018. According to the maps that were used that evening and sent to us in the mail, the most southern tip of Shumway Family Properties, LLC is being considered as part of the new Pasco Urban Growth boundary.

We would like it to be known that we support the boundary changes and would like to see an increased number of acres from Shumway Family Properties, LLC included in the proposed boundary changes. We are aware that there are some negative feelings towards the new proposed growth boundary changes by neighboring farmers who have no desire to quit farming their ground. It appears to us that the natural flow of development would be to have the boundary set with the land west of Taylor Flats and south of Selph Landing road. It would be a natural division between county and city. It seems that because of the lay of our land and location it would be a great addition to the natural growth of the city of Pasco, and that both commercial and residential requirements could be met satisfactorily with these added acres. We know that types of farm ground have to be a consideration in your decision as well but the truth is that today with center pivot irrigation and water and soil management there is very little difference in soil types concerning growing conditions of crops in the Columbia Basin.

If the boundary lines need to be significantly enlarged and more acres are needed to conform with state population projections we currently have the acres needed and they are adjacent to what is now proposed and would fit with the projected growth expected and the number of acres needed. We would ask that you would consider adding these acres to the proposed boundary line changes.

Regards,


Harvey & Kiki Shumway

Shumway Family Properties, LLC
401 Shumway Rd
Pasco, WA 99301
509-948-2836

cc: Pasco Planning Dept
Pasco Planning Commission
Pasco City Council
Franklin County Planning Dept.