

CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION

Agenda
August 18, 2020
7:00 PM

1. **ROLL CALL**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES**
 - 3A. July 21, 2020 regular meeting minutes
4. **PUBLIC DISCUSSION** – Public comment on any item not otherwise listed on the agenda.
5. **PUBLIC HEARINGS**
 - 5A. An application by WKK, Inc. for a Commercial Industrial Development Permit (CIDP) for a multi-tenant commercial building on a 1.26 acre site located at 4803 Miller Trunk Highway. The property is located in a C, Commercial zoning district.
 - 5B. Zoning Ordinance text amendment by the City of Hermantown amending Section 1005 and 1010.04 of the Hermantown Zoning Code regarding the City approval process for flag lots.
 - 5C. A public hearing in order to solicit comments on a Draft Zoning Ordinance prepared by the Joint Airport Zoning Board.
6. **CONTINUING BUSINESS**
7. **NEW BUSINESS**
8. **COMMUNICATIONS**
 - 20-120 Duluth International Airport – Taxiway a Mill and Overlay Project
9. **COMMISSION MEMBER REPORTS**
 - Greg Zimmerman –
 - Joe Peterson –
 - Corey Kolquist –
 - Tracy Lundeen –
 - Valerie Ouellette –
 - Samuel Clark –
 - Wayne Boucher

ADJOURN

Because attendance at the regular meeting location is not feasible due to the health pandemic, Hermantown's August 18, 2020, Planning and Zoning Commission meeting will be conducted remotely, utilizing the platform "Zoom" – which allows the public to view and/or hear the meeting from their phone or computer.

Beginning shortly before 7:00 p.m. on August 18, 2020, this meeting will be available at: <https://us02web.zoom.us/j/84406789261?pwd=b1hRaHR4bi9kSzhZSGJ6YWVhbnRlUT09> and/or by calling the number 312 626 6799 and utilizing the meeting ID 844 0678 9261 and the password 117415.

A few important tips regarding the Zoom platform:

- **If you do not have audio on your computer, but wish to see the meeting and speak at the meeting – you can log in both on your computer (to see) and call in on your phone (to speak)**
- **It is a new situation for all of us, so grace and understanding are appreciated**

CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION
July 21, 2020 Meeting Summary
7:00 PM

1. ROLL CALL

Members Present: Joe Peterson; Valerie Ouellette; Samuel Clark; and Wayne Boucher.

Members Absent: Greg Zimmerman; Tracy Lundeen and Corey Kolquist.

Others Present: Eric Johnson, Community Development Director; Emy Dewitt, 5126 Wagner; Sandra Carlson, 5161 Morris Thomas Rd.; and Brian Bergeron, 5164 Country Ln.

2. APPROVAL OF AGENDA

Motion made by Valerie Ouellette to approve the July 21, 2020 agenda as presented. Seconded by Samuel Clark. Motion carried.

3. APPROVAL OF MINUTES

Motion made by Samuel Clark to approve the June 16, 2020 minutes as presented. Seconded by Valerie Ouellette. Motion carried.

4. PUBLIC DISCUSSION

None.

5. PUBLIC HEARINGS

5A. An application by Sandra Carlson for a Subdivision to create a 147-foot-wide parcel of 1.69 acres and a 3.90-acre lot accessed by way of a flag lot of 37-foot width at 5161 Morris Thomas Road. The property is located in an R-3 zoning district.

Eric Johnson, Community Development Director, presented to the Commission that the applicant, Sandra Carlson, proposes to create a new flag lot along the western border of the existing property. The applicant is proposing a 37 foot 'pole/driveway' connection to Morris Thomas Road for a distance of 500 feet with the 'flag' portion of the lot being approximately 183' x 823'. The proposed lot sizes for the two total parcels are:

Parcel A: 147' x 500' / 73,616 sf. or 1.69 acres

Parcel B: 37' x 500' and 183' x 823' / 169,884 or 3.90 acres

The applicant intends to sell the new lot for a new single-family home. The applicant will keep the existing home. The applicant will need to remove the secondary gravel drive on the west side of the property which serves the existing home as shared driveways are not permitted.

A Zoom participant asked if the driveway really needs to come back 500 feet.

According to Eric, the answer is yes. The pole portion that is 500 feet is where the driveway lays within that area.

Another Zoom participant asked if the map could be put up again and explain the 500 feet reference.

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Eric presented the location map and noted that 500 feet is what is allowed by the City's Ordinance.

Another Zoom participant asked what the offsets to each side were.

Eric noted there is a 10 foot setback from the driveway to the property line. He also stated that there are no wetlands on this site.

Samuel Clark asked for an overview of what a flag lot is in the City of Hermantown.

Eric noted that approximately two years ago, City staff looked at the possibility of adding more housing stock to the City without creating more infrastructure.

Samuel also asked if the City dictates how long a driveway needs to be.

Eric stated that no, the City does not. He also stated that as long as meets the side yard and rear yard setbacks, that driveway could be as long as the property owner wanted.

Brian Bergeron, 5164 Country Ln., is concerned about the location of the new home in relation to the back of his own property. He is also concerned about the increased density of housing in this particular area. Brian also asked for further explanation with the creation of the new flag lot, the requirements to utilize City sanitary sewer and water services.

Eric explained that there is water and sewer services on Morris Thomas. The City's policy is when a structure is within 600 feet of those utilities, the property owner is required to hook up into those utilities. Depending on the ultimate placement of the home, the property owner could choose septic or well.

Motion made by Valerie Ouellette to approve the application by Sandra Carlson for a Subdivision to create a 147-foot-wide parcel of 1.69 acres and a 3.90-acre lot accessed by way of a flag lot of 37-foot width at 5161 Morris Thomas Road. Seconded by Samuel Clark. Motion carried.

5B. An application by William and Jennifer Wolk for a Subdivision to create a 135-foot-wide parcel of 0.79 acres and a 4.26-acre lot accessed by way of a flag lot of 31.75-foot width at 5140 Morris Thomas Road. The property is located in an R-3 zoning district.

Eric noted that the applicants, William and Jennifer Wolk, own a five acre property at 5140 Morris Thomas Road, one-quarter mile west of Lavaque Road with a lot frontage of 166'. A single family house and three accessory buildings are located on the property.

The Wolks propose to create a new flag lot along the western border of the existing property. The applicant is proposing a 31.75 foot 'pole/driveway' connection to Morris Thomas Road for a distance of 255 feet with the 'flag' portion of the lot being approximately 166' x 1032'.

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The proposed lot sizes for the two total parcels are:

Parcel A: 135' x 255' / 34,425 sf. or 0.79 acres

Parcel B: 31.75 x 255' and 166' x 1032' / 185,454 or 4.26 acres

The Wolks also intend to construct a new single-family home on the new parcel and then sell the existing home upon completion of the new residence. There is an existing power pole within the right of way of the newly created 'pole' which the Wolks would need to coordinate with the utility company to have relocated.

Emy Dewitt, 5126 Wagner Rd., stated that she is against a driveway being placed on Wagner Rd.

Motion made by Samuel Clark to approve application by William and Jennifer Wolk for a Subdivision to create a 135-foot-wide parcel of 0.79 acres and a 4.26-acre lot accessed by way of a flag lot of 31.75-foot width at 5140 Morris Thomas Road. Seconded by Valerie Ouellette. Motion carried.

5C. An application by David Mesojedec for the rezoning of 3721 Lavaque Road from R-3, Residential to C, Commercial.

Eric informed the Commission that during the spring of 2020, Mr. Mesojedec inquired with St. Louis County why his property was being assessed at a commercial rate. The question was brought to the Hermantown Board of Appeal and Equalization on April 15, 2020 and staff verified that the property was zoned R-3, Residential. However, from review of the property file, internet search and visual inspection it was apparent that Mr. Mesojedec was conducting a business out of a residentially zoned property, which is in violation of the City ordinance.

From staff review of the property file, this lot was originally zoned C, Commercial. In 2010 the previous property owner applied for a lot split and a rezoning of the original 22 acre property. The application was approved with the result being a 5.82 acre lot (3721 Lavaque Road) and a 16.23 acre lot (3747 Lavaque Road) which were both rezoned from C, Commercial to R-3, Residential.

Staff contacted Mr. Mesojedec to discuss this and offered one of two courses to resolve the zoning violation. One option was the rezoning of the property back to a C, Commercial zoning with the second being the relocation of the business to an appropriately zoned district.

Sam asked if there were any other similar cases such as this in recent years with the City of Hermantown.

Eric stated there was not. The City tries to avoid spot zoning.

Martin Theobald, 3747 Lavaque Rd., stated that his property was also zoned to residential before the Theobalds and the Mesojedecs purchased the properties. As part of the Purchase

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Agreement with the prior owner, it was agreed upon that the prior owner would rezone the remaining land to residential. Mr. Theobald is against the rezoning to commercial.

Wayne Boucher, Mayor, asked if there is a legal way for Mr. Mesojedec to continue his business and still ensure that any succession ownership of the property would not change the business use.

Eric stated that when this initially came up to City, staff looked at it as a home occupation standpoint. Home occupation generally is suited toward a one hair chair salon, or a one person insurance agent office. The fact that equipment is stored on the property, it is also open for employees to congregate and assemble at, it falls outside the realm of the home occupation guidelines. Staff does not have the ability to handle this under a special use permit because we'd be going against the zoning.

Wayne suggested that the matter be tabled this evening and that the City Council could take up the matter.

Dave Mesojedec, 3721 Lavaque Rd., stated that he is fine with the matter being tabled this evening.

Motion made by Samuel Clark to table the application by David Mesojedec for the rezoning of 3721 Lavaque Road from R-3, Residential to C, Commercial. Seconded by Valerie Ouellette. Motion carried.

5D. An application by P&R Properties for a Wetland Replacement Plan for wetland impacts located at 5298 Miller Trunk Highway. The property is located in a C, Commercial zoning district.

Eric presented to the commission that applicant, P&R Properties, is proposing a 149-unit, five story apartment building consisting of 11 alcove/studio units, 85 one bedroom units, 33 two bedroom units and 20 three bedroom units. The building has a footprint of approximately 42,260 square feet for a total of approximately 222,050 square feet in size.

The location of the building and stormwater pond will impact 13,540 square feet of wetland on the property. The proposed delineation has been reviewed and approved by the Hermantown Technical Evaluation Panel (TEP) with the impacts being approved on July 20, 2020.

Staff recommends approval of the Wetland Replacement Plan with the following conditions:

1. Proof of a purchase agreement for wetland credits in Bank Service Area 1;
2. Conduct best management methods that will be used to protect the wetland soils harvested from the existing wetlands and being used in the raingarden;
3. Construct the 3,642 square foot raingarden in accordance with the approved engineering plans;

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4. The applicant shall sign a consent form assenting to all conditions of this approval;
and
5. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

Motion made by Valerie Ouellette to approve application by P&R Properties for a Wetland Replacement Plan for wetland impacts located at 5298 Miller Trunk Highway. Seconded by Samuel Clark. Motion carried.

6. CONTINUING BUSINESS
None.

7. NEW BUSINESS
Eric discussed briefly what will be on the August Planning and Zoning agenda regarding the airport custom zoning with the Duluth Airport Authority and their Zoning Board, the Joint Airport Zoning Board.

8. COMMUNICATIONS
None.

9. COMMISSION MEMBER REPORTS
Joe Peterson – None.
Greg Zimmerman – Absent.
Corey Kolquist – Absent.
Tracy Lundeen – Absent.
Valerie Ouellette – None.
Samuel Clark – None.
Wayne Boucher – None.

ADJOURN

Motion made by Samuel Clark to adjourn the meeting. Seconded by Valerie Ouellette. Meeting adjourned at 8:26 pm.

Officiated by:

Transcribed by:

Joe Peterson, Chairman

Mary Melde, Administrative Assistant



5A. 4803 Miller Trunk Highway – Commercial Industrial Development Permit (CIDP)

Applicant: WKK, Inc.
Case No.: 2020-50-CIDP
Staff Contact: Eric Johnson, Community Development Director
Request: Approve a Commercial Industrial Development Permit with conditions for a 7,394 square foot retail/commercial development.

RECOMMENDED ACTION:

Approve a Commercial Industrial Development Permit (CIDP) in order to redevelop an existing 1.26 acre site located at 4803 Miller Trunk Highway. The applicant is proposing to redevelop the property for a retail/commercial use.

DESCRIPTION OF REQUEST:

The applicant is proposing to redevelop the existing site/building into a 7,394 square foot, three bay retail/commercial site. The project involves a partial tear down of the existing building, the reconfiguring of the parking lot area, the creation of a drive-thru area, new landscaping and stormwater facilities.

SITE INFORMATION:

Parcel Size: 1.26 acres
Legal Access: 4803 Miller Trunk Highway
Wetlands: N/A
Existing Zoning: C, Commercial
Airport Overlay: C, height restrictions only
Shoreland Overlay: N/A
Comprehensive Plan: Commercial

ZONING ANALYSIS:

Zoning District: C, Commercial		
Type	Required	Proposed
Min Lot Area	None	1.26 acres
Lot Width	None	151 feet along MTH, 223 feet along Arrowhead Road
Front Yard	35 feet ROW	52 feet from Arrowhead Road pavement
Rear Yard	40 feet	Varies - 40' average

Side Yard	10 feet	Varies from 3' to 126'
Lot coverage	50%	14%
Maximum Building Height	65 feet	20 feet
Parking	37 (1 per 200 sq. ft.)	47
Airport Safety Zone: C		
Maximum Building Elevation	1580'	< 1489'

Stormwater Management

The property is 1.26 acres in size, however approximately 5,800 square feet along Arrowhead Road is encumbered by right of way/easement. After subtracting this right of way/easement, the site is approximately 1.13 acres in size. The existing site has approximately 42,165 square feet of impervious surface (86%).

The proposed site plan shows approximately 35,335 of impervious surface (71.8%) which is a 14.2% decrease from the existing conditions. The plan proposes three detention basins on site for the treatment of stormwater. The applicant will need to submit preliminary and final engineering plans and receive a MS4 Statement of Compliance Erosion Control Permit from the City Engineer before issuance of the Commercial Industrial Development Permit.

Access

The property is accessed from an existing right in/out on Miller Trunk Highway as well as from the private interior driveway which provides access to Menards, McDonald's and Kwik Trip. The redevelopment does not propose any changes to these existing access points.

Utilities

The project will utilize the existing water and sewer services. Existing utilities are located in the Mn/DOT right-of-way of Miller Trunk Highway. Applicant shall submit permits or letter of approval from MN/DOT for work within right-of-way. The applicant will need to coordinate with the City hook into the lines and will have to pay the sewer and water hookup fees. The applicant will need to submit preliminary and final engineering plans from the City Engineer before issuance of the Commercial Industrial Development Permit.

Park Dedication Fees

The City collects one-time park dedication fees on commercial properties at the time development permits are approved. No park dedication fees have been paid for this property. The applicant shall pay \$1,100 per acre for a total of \$1,243.

SUMMARY AND RECOMMENDATION:

Staff recommends approval of the Commercial Industrial Development Permit based on the findings set forth in the Staff report, subject to the following conditions:

1. The applicant is seeking to construct a 7,394 square foot, one-story building to for a retail/commercial use. The applicant will need to supply final site engineering and architectural plans prior to the issuance of the Commercial Industrial Development Permit (CIDP).

2. The proposal meets the requirements of Section 520, "C, Commercial" of the Hermantown Zoning Ordinance.
3. The proposal meets the requirements of Chapter 8, "Commercial-Industrial Development Permits" of the Hermantown Zoning Ordinance.
4. There are no wetlands located on the site.
5. Prior to issuance of the CIDP, the applicant shall submit final Stormwater and Erosion and Sediment Control Plans and receive a MS4 Statement of Compliance from the City Engineer.
6. Prior to issuance of the CIDP, the applicant shall submit copies of approved permits or letters of approval from MN/DOT for work within the right-of-way and access.
7. Applicant shall pay park dedication fees of \$1,100 per acre for a total of \$1,243.
8. Applicant shall pay City water availability and sewer and water connection fees.
9. The applicant shall sign a consent form assenting to all conditions of this approval.
10. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS:

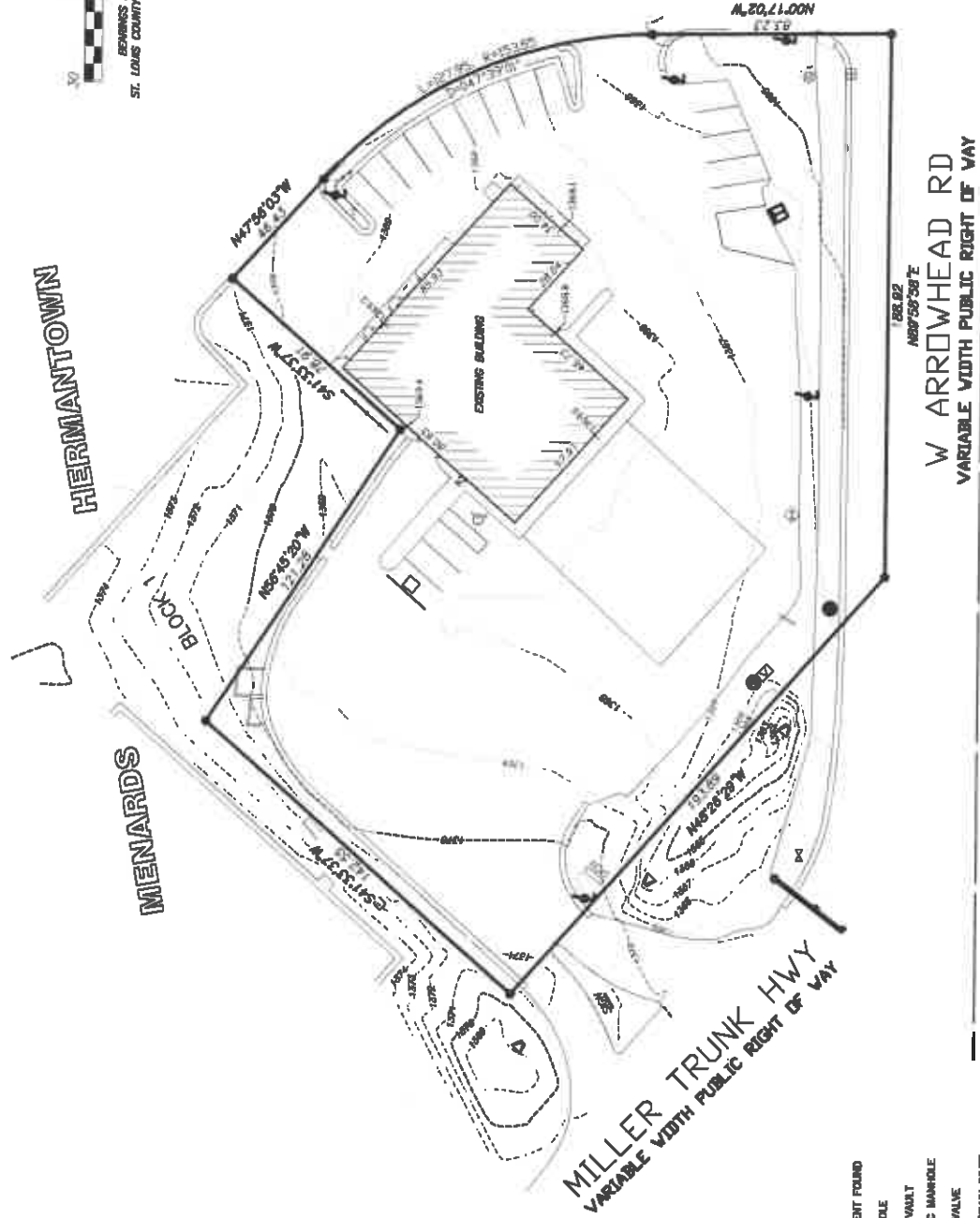
- Site Location Map
- Existing Site Survey
- Proposed Site Plan
- Proposed Grading Plan
- Proposed Landscape Plan
- Proposed Building Elevations

Location Map



CERTIFICATE OF SURVEY

DESCRIPTION TO BE ADDED



LEGEND

- MONUMENT FOUND
- LIGHT POLE
- UTILITY VAULT
- ELECTRIC MANHOLE
- WATER VALVE
- STORM DRAIN INLET
- PROPERTY BOUNDARY
- EXISTING CONTOUR
- SPOT ELEVATION - EXISTING

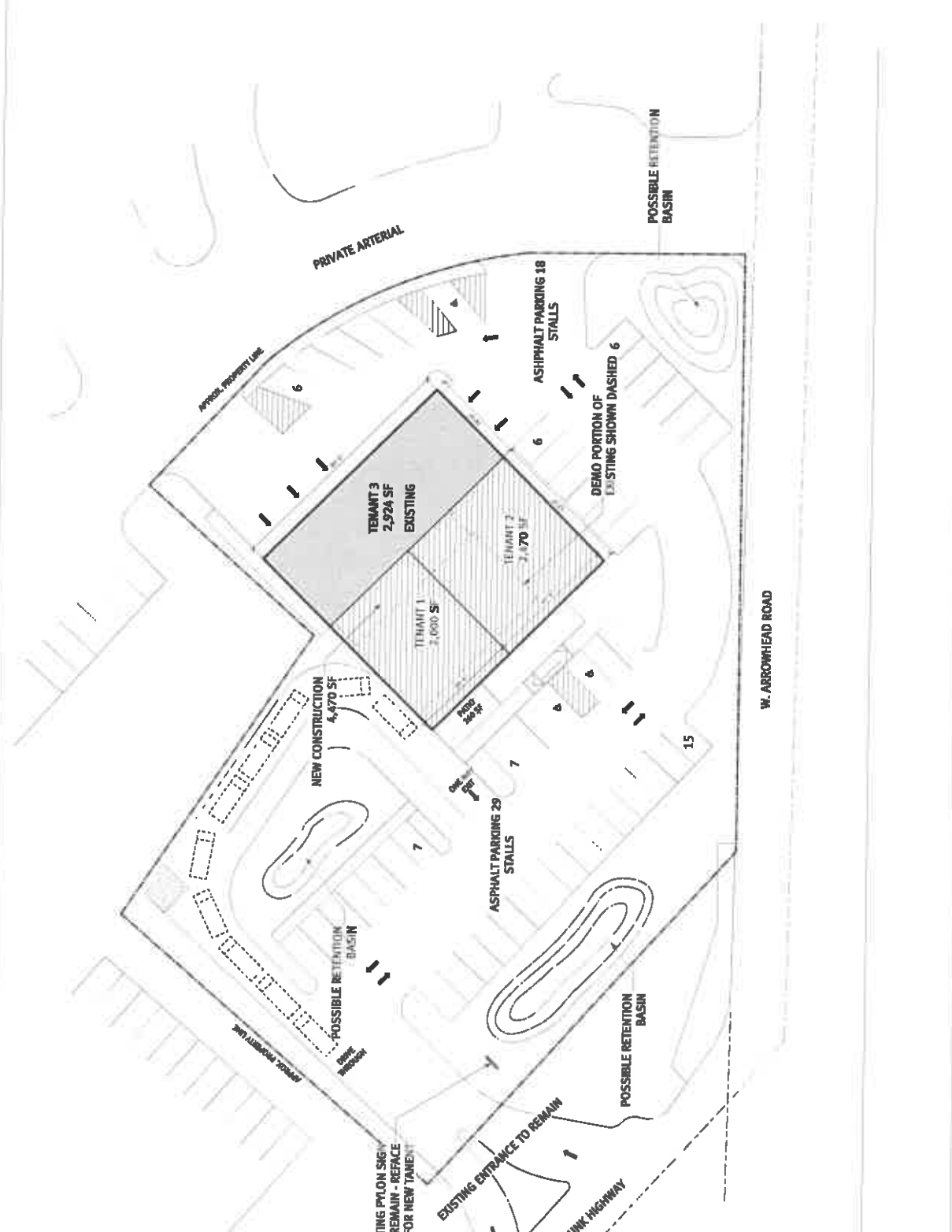
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1.437



MIKE KOSKI
SEC 12-TMFSO-RNG 15
ST. LOUIS COUNTY, MO

DATE: 08/22/2011
DRAWN BY: [Name]
CHECKED BY: [Name]

THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1967 AND THE RULES OF PROFESSIONAL CONDUCT FOR SURVEYORS IN THE STATE OF MISSOURI.
I, THE SURVEYOR, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF MISSOURI.
DATE: 08/22/2011



1 ARCHITECTURAL SITE PLAN
10-20-19



HERMANTOWN BP/AMOCO
7-24-2020



**Engineering
Land Surveying
Site Development**

JPI ENGINEERING, INC
425 Grant Street
Hibbing, MN 55746
(218) 262-5528

5070 Miller Trunk Hwy
Duluth, MN 55811
(218) 720-6219
www.jpieng.com

**MILLER TRUNK HWY
REDEVELOPMENT
HERMANTOWN, MINNESOTA**

PRELIMINARY SITE PLAN

DATE: _____ LC. NO. _____

PROJECT NO. _____

PRELIMINARY

DATE: _____

SI 1

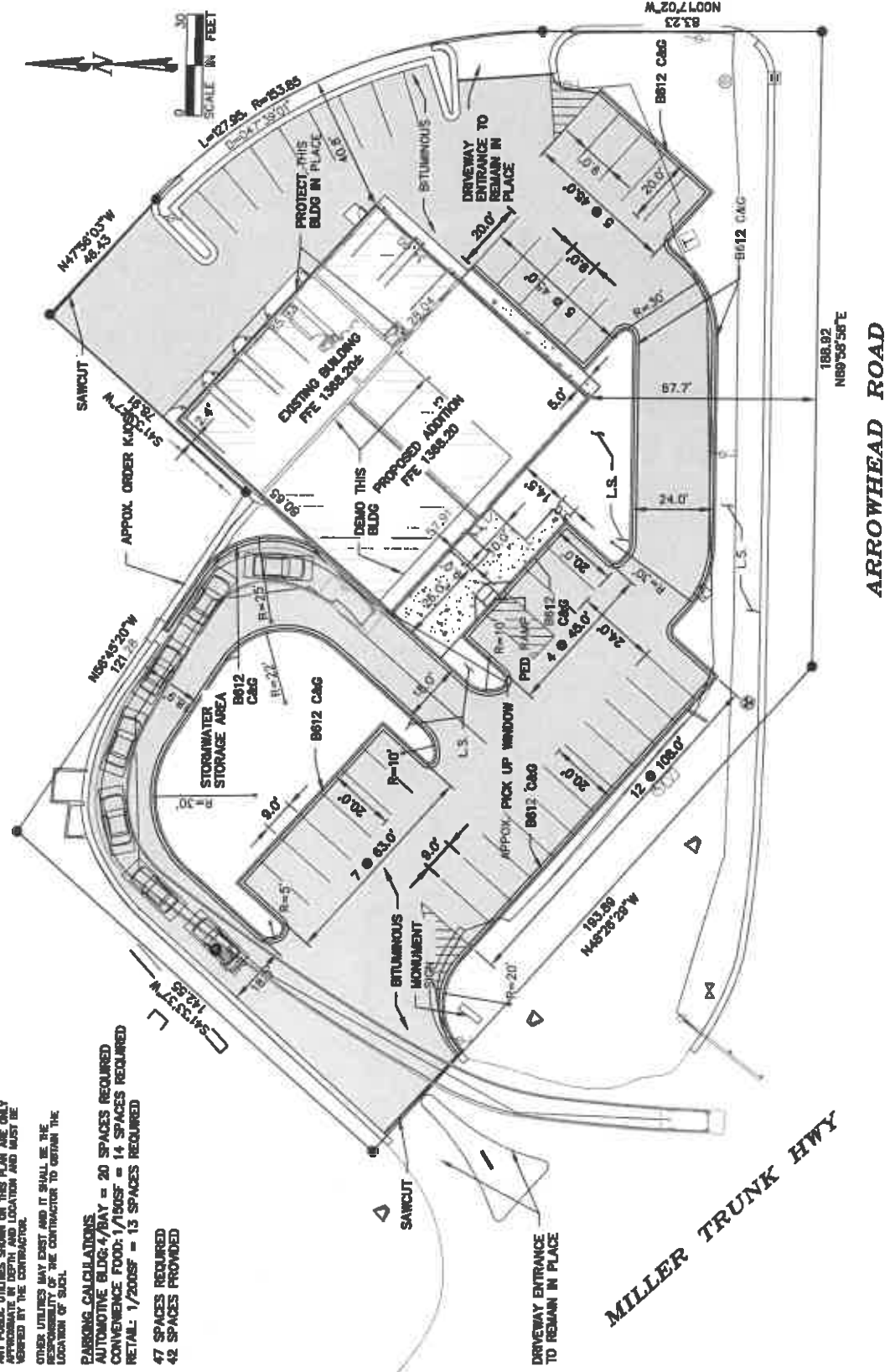
Call all hours before digging
GOPHER STATE ONE CALL
Toll Free 1-800-282-1199

NOTE:
THE SURFACE UTILITY INFORMATION IN THIS PLAN IS BASED ON THE RECORD DRAWINGS OF THE UTILITY DEPARTMENT OF THE CITY OF HERMANTOWN, MINNESOTA. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COLLECTION AND DETECTION OF EXISTING SURFACE UTILITY DATA.

NOTE:
ANY PUBLIC UTILITIES SHOWN ON THIS PLAN ARE ONLY AS SHOWN IN DEPTH AND LOCATION AND MUST BE VERIFIED BY THE CONTRACTOR.

OTHER UTILITIES MAY EXIST AND IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE LOCATION OF SUCH.

PARKING CALCULATIONS
AUTOMOTIVE BLDG: 4/BAY = 20 SPACES REQUIRED
CONVENIENCE FOOD: 1/1500SF = 14 SPACES REQUIRED
RETAIL: 1/2000SF = 13 SPACES REQUIRED
47 SPACES REQUIRED
42 SPACES PROVIDED





JPI Engineering, Inc.
 Engineering
 Land Surveying
 Site Development

JPI ENGINEERING, INC.
 425 Grant Street
 Holland, MI 49426
 (216) 262-3528

5670 Miller Trunk Hwy
 Durand, MI 48811
 (216) 720-6219
 www.jpicons.com

**MILLER TRUNK HWY
 REDEVELOPMENT
 HERRINGTON, MINNESOTA**

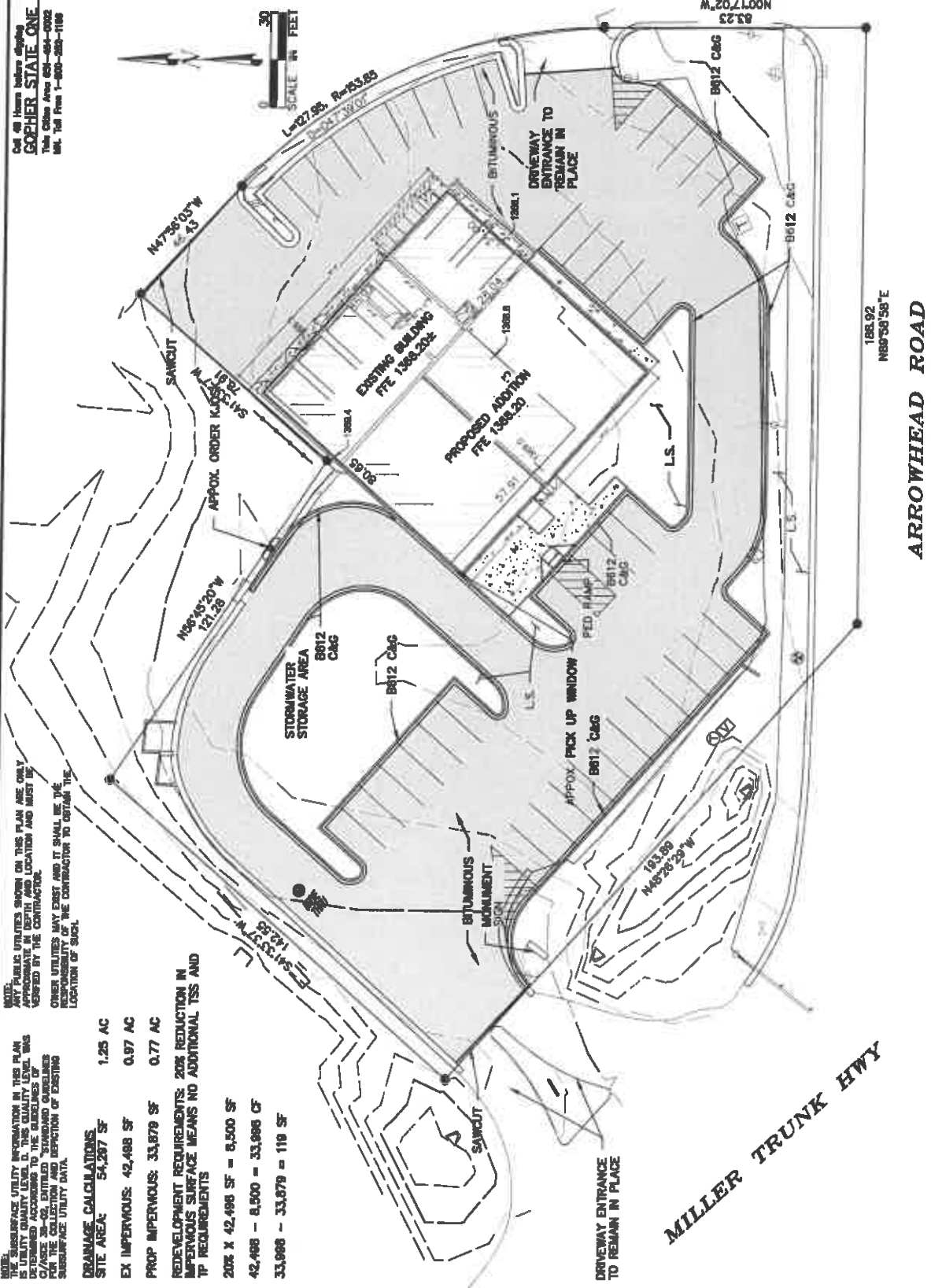
PRELIMINARY GRADING PLAN

DATE	11/11/2010
BY	J.P. JENSEN
CHECKED	SC
IN CHARGE	J.P.

PRELIMINARY
 JOHN F. JENSEN, P.E.
 DATE: 11/11/2010

GR 2
 20-791
 PROJECT NO.

Call 800 Home before driving
GOEPHER STATE ONE CALL
 1-800-368-1188
 1-800-368-1188
 1-800-368-1188



NOTE:
 SURFACE UTILITIES SHOWN ON THIS PLAN ARE ONLY APPROXIMATE IN LOCATION AND MUST BE VERIFIED BY THE CONTRACTOR.
 OTHER UTILITIES MAY EXIST AND IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE LOCATION OF SUCH.

THE SURFACE UTILITY INFORMATION IN THIS PLAN IS DETERMINED ACCORDING TO THE QUALITY LEVEL WAS OBTAINED BY THE SURVEYING OF THE EXISTING UTILITY DATA.

DRAINAGE CALCULATIONS:
 SITE AREA: 54,287 SF 1.25 AC
 EX IMPERVIOUS: 42,488 SF 0.97 AC
 PROP IMPERVIOUS: 33,879 SF 0.77 AC

REDEVELOPMENT REQUIREMENTS: 20% REDUCTION IN IMPERVIOUS SURFACE MEANS NO ADDITIONAL TSS AND TP REQUIREMENTS

20% X 42,488 SF = 8,500 SF
 42,488 - 8,500 = 33,988 CF
 33,988 - 33,879 = 110 SF

MILLER TRUNK HWY

ARROWHEAD ROAD



Engineering
Land Surveying
Site Development

JPI ENGINEERING, INC.
425 Court Street
Hibbing, MN 55746
(218) 262-5528
5870 Miller Trunk Hwy
Duluth, MN 55811
(218) 720-6219
www.jpimg.com

MILLER TRUNK HWY
REDEVELOPMENT
REHABILITATION

PRELIMINARY LANDSCAPE
PLAN

DATE: _____
DRAWN BY: _____
CHECKED BY: _____
APPROVED BY: _____

PRELIMINARY
PLAN

DATE: _____
DRAWN BY: _____
CHECKED BY: _____
APPROVED BY: _____

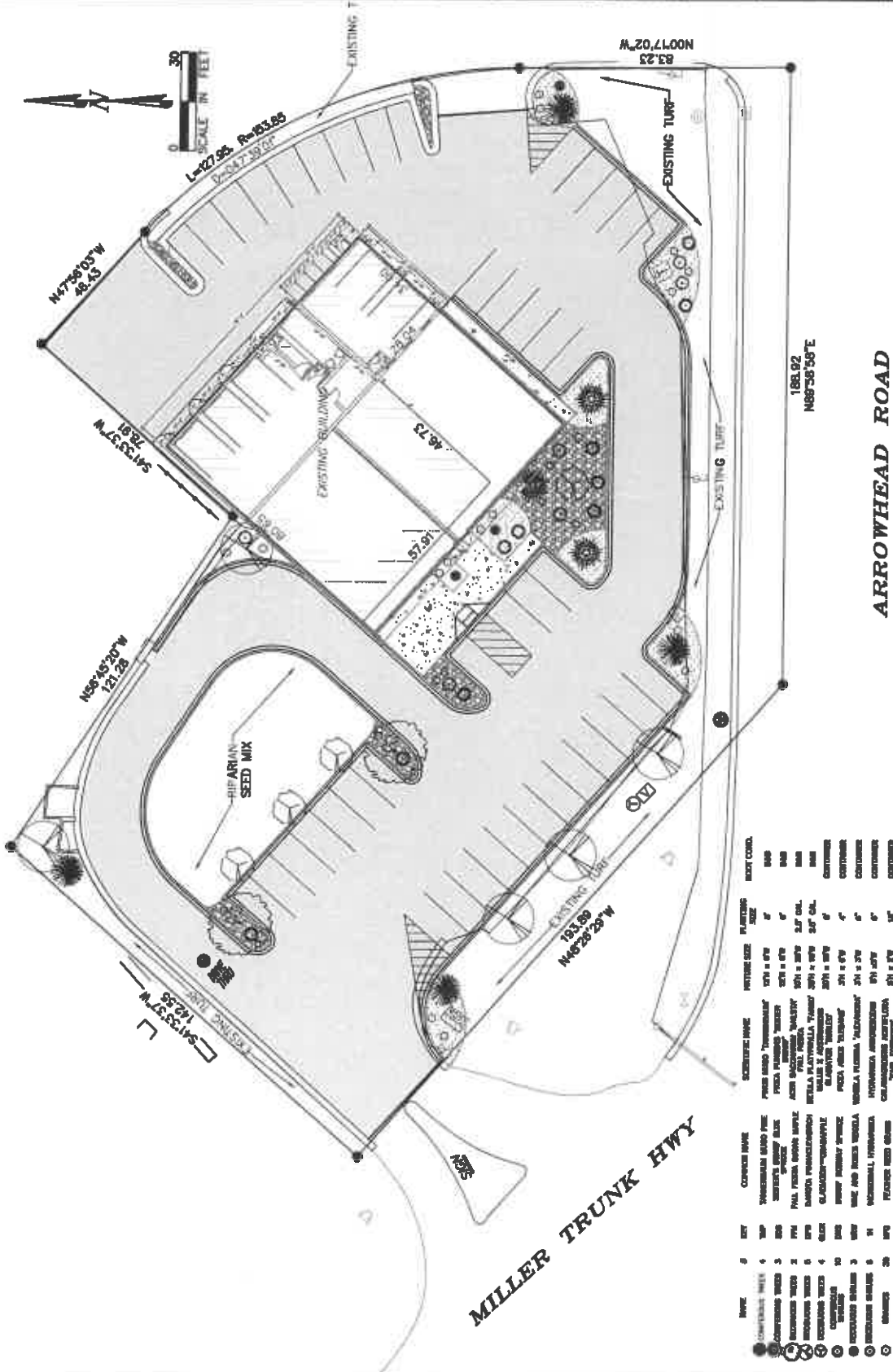
20-791
PROJECT NO.

LA 1

Call 800 Home before opening
GOPHER STATE ONE CALL
Main Office Area 888-484-0002
MN Toll Free 1-800-258-1188

LANDSCAPE KEY

- ◻ : DECORATIVE ROCK W/ FINISH AND EXPOSE
- ◻ : DARK MULCH W/ FINISH AND EXPOSE



NO.	SYM.	COMMON NAME	SCIENTIFIC NAME	PLANTING DATE	PLANTING SIZE	PLANTING CODE	PLANTING CODE
1	○	AMERICAN BIRCH	BETULA PICEA	2018	2 1/2"	2018	2018
2	○	RED BUD	JAS. FRAXINUS	2018	2 1/2"	2018	2018
3	○	DOGWOOD	CORNUS FLORIDA	2018	2 1/2"	2018	2018
4	○	DOGWOOD	CORNUS FLORIDA	2018	2 1/2"	2018	2018
5	○	DOGWOOD	CORNUS FLORIDA	2018	2 1/2"	2018	2018
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49	○	DOGWOOD	CORNUS FLORIDA	2018	2 1/2"	2018	2018
50	○	DOGWOOD	CORNUS FLORIDA	2018	2 1/2"	2018	2018



**HERMANTOWN
BP/AMOCO**

Project Address
CITY, STATE ZIP

Project No. 2024-001
Date: 01/15/2024
Architect: [Redacted]
Job No: [Redacted]

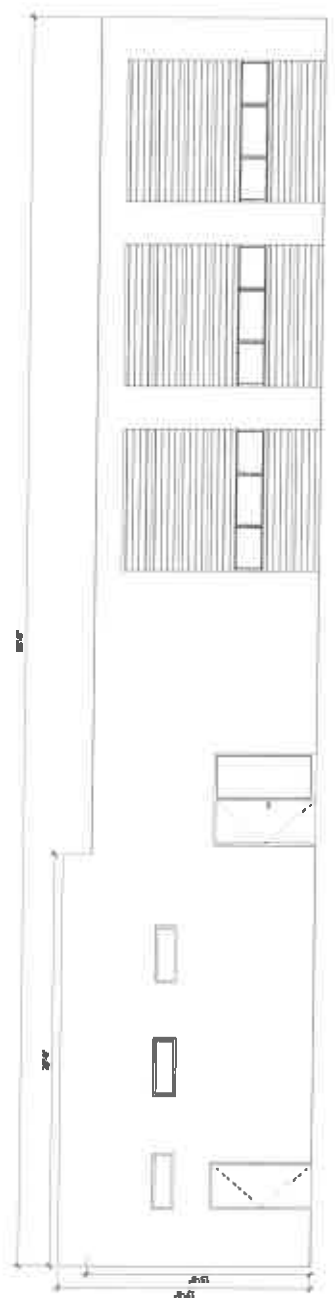
This drawing is for informational purposes only. It is not to be used for construction. All dimensions are subject to change without notice.

Sheet No. 1 of 1
Date: 01/15/2024
Scale: 1/4" = 1'-0"

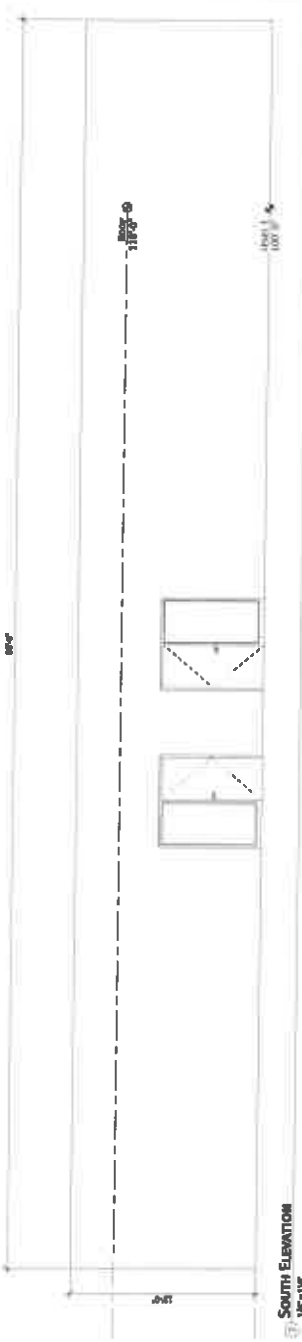
**PRELIMINARY NOT FOR
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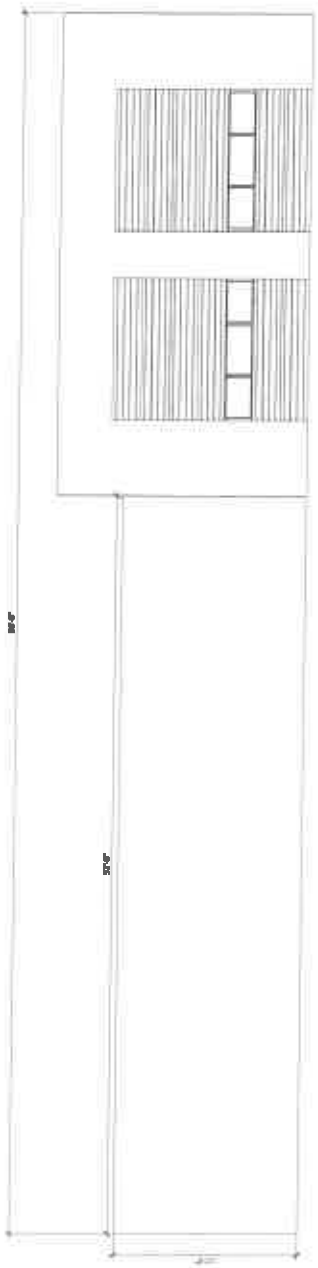
EXTERIOR
ELEVATIONS
A5.2



1 NORTH ELEVATION
1/4" = 1'-0"



2 SOUTH ELEVATION
1/4" = 1'-0"



3 EAST ELEVATION
1/4" = 1'-0"

5B. Flag Lot Approval Procedures

<u>Applicant:</u>	City of Hermantown
<u>Case No.:</u>	2020-52-ZT
<u>Staff Contact:</u>	Eric Johnson, Community Development Director
<u>Request:</u>	Recommend a zoning ordinance amendment to the flag lot approval procedure

DESCRIPTION OF REQUEST:

City staff is requesting that the Planning and Zoning Commission recommend approval to the City Council of an ordinance amendment to the flag lot approval process.

BACKGROUND:

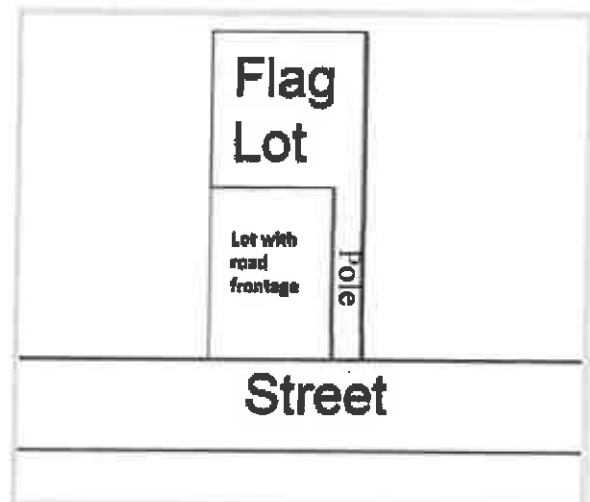
In 2016, the Planning and Zoning Commission recommended changes to the City's subdivision ordinance allowing the creation of flag lots. A flag lot is a lot containing an area shaped like a "flag" which is the portion of the lot are to be located and an area shaped like a "pole" which is the portion of the lot connecting to the road. Flag lots were not previously allowed because they do not meet the standards for road frontage.

Flag lots were allowed if specific conditions could be met and the City found that the flag lot would not interfere with future development of the area.

Key conditions include:

- The pole cannot exceed 500 feet.
- The pole must be 30' wide and driveway setback at least 10' from the neighboring property.
- The flag must meet width and area standards for the zoning district.
- The regular lot must continue to meet width and area standards for the zoning district.
- Only single family residential and accessory uses are allowed on the flag lot.
- Only one flag lot can be created from a property.

Since 2016, the City has approved 5 flag lots. The City has not denied a flag lot application. Flag lots require a public hearing and both Planning Commission and City Council approval. The City currently allows administrative approval of non-flag lots that result in three or fewer new lots. Requiring the



Planning and Zoning Commission and City Council to approve the flag lot adds two to four weeks to the lot splitting process. Considering the lack of reported issues with flag lots, City staff is recommending that the ordinance be amended to eliminate the City Council's required approval to provide more responsive service. Staff is recommending that the ordinance be amended to include a process that would allow aggrieved parties to appeal the Planning Commission's decision to the City Council and for the Council to review a decision of its own accord.

RECOMMENDATION:

City Staff recommends that the Planning Commission forward amendments to Chapter 10 Land Splits and Platting amending Section 1010.04 regarding the approval process for flag lots based on the following findings:

1. The Hermantown Planning and Zoning Commission finds that the proposed amendments are consistent with the Hermantown Zoning Regulations Purpose and Objectives to ensure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, and to promote the public health, safety and general welfare.
2. The Hermantown Planning and Zoning Commission finds that the proposed amendments are consistent with the established role of the Hermantown Planning and Zoning Commission granting zoning approvals and provides the City Council the ability to make final decisions through the appeals and review process.
3. The Planning and Zoning Commission recommends approval of the amendments to Chapter 10 Land Splits and Platting of the Hermantown Zoning Regulations which are attached as Attachment A. Proposed Flag Lot Amendments

ATTACHMENTS:

- Attachment A. Proposed Flag Lot Amendments
- Ordinance

Attachment A. Proposed Flag Lot Revisions

1005.01.5. “Flag Lot” means a lot containing an area shaped like a “flag” which is the portion of the lot where all structures are to be located and an area shaped like a “pole” which is the portion of the lot where the vehicular access between the flag and its adjoining road shall be located.

1010.04 Flag Lots. Flag lots may be allowed in the S-1, R-1, and R-3 Zoning Districts provided that:

1010.04.1. The resulting lots do not violate any provision of the Hermantown Zoning Regulations, Comprehensive Plan, or any other local ordinance.

1010.04.2. The width of the flag lot at the front yard setback line must meet the lot width requirements of the Hermantown Zoning Regulations.

1010.04.3. The pole portion of a flag lot shall not exceed 500 feet.

1010.04.4. The pole portion of a flag lot must have a minimum width of 30 feet, be of uniform width, be a platted part of the flag lot, and connect to a public street. The driveway shall be set back a minimum of 10 feet from the neighboring property that was not used to create the flag lot and five feet from the mother property.

1010.04.5. The pole portion of the flag lot will not be included in calculating the minimum lot area.

1010.04.6. Only one flag lot may be created from an existing mother property.

1010.04.7. Must be used exclusively for single family dwelling and accessory uses.

1010.04.8. The City must determine that the creation of the flag lot will not interfere with future development of roads or interior lands.

1010.04.9. The City must determine that the flag lot provides adequate accessibility of emergency responders.

1010.04.10. All flag lots must display an address at their closest point of access to a public street for emergency responders.

1010.04.11. Procedure for Filing, Review, and Approval of Flag Lots. An application to create a flag lot must be submitted to the Zoning Officer on a form provided by the City accompanied by the following:

1010.04.11.1. An application fee set by the City Council.

1010.04.11.2. A certificate of survey map for abstract land or registered land survey for

Torrens land.

1010.04.11.3. A full legal description of the existing property and resulting parcels documented by all current land title records.

1010.04.11.4. Upon receipt of a complete application, the Zoning Officer will set a date for a public hearing before the Planning and Zoning Commission. Not less than ten days before the public hearing, the City will publish a notice in the official newspaper and send notice by mail to the Applicant and to the owners of all property wholly or partially within 350 feet of the property to be subdivided. The Hermantown Police and Fire Department will be notified at the same time.

1010.04.11.5. Decision by Planning and Zoning Commission. Following the hearing, the Planning and Zoning Commission shall make its decision on an application for a Flag Lot. Action shall be my majority vote of the members present and voting.

1010.04.11.6. Appeal to Council. The decision of the Planning and Zoning Commission shall be subject to appeal to the City Council by any person or persons, jointly or severally aggrieved by any decision of the Planning and Zoning Commission, or any taxpayer, officer, department, board or bureau of the City under the procedures as set forth for appeals from decisions of the Board of Appeals and Adjustments under Section 355 of this code.

1010.04.11.7 Review by Council. The City Council, upon its own motion, may review any action of the Planning and Zoning Commission this section. Such review shall be initiated within ten days of the date of the decision by the Planning and Zoning Commission by the majority vote of those Council members present and voting on the matter.

1010.04.11.8 Procedures. Upon a review of any such action of the Planning and Zoning Commission, the City Council shall proceed in accordance with the procedures set forth in Section 355 of this code.

1010.04.11.9 Finality. A decision by the Planning and Zoning Commission under this section shall not be final until any appeal period specified herein shall have expired. No action shall be taken by any party in reliance on any such decision of the Planning and Zoning Commission until it shall be final.

Ordinance No. 2020-XX

The City Council of the City of Hermantown does ordain:

AN ORDINANCE AMENDING SECTIONS 1005 AND 1010 OF THE HERMANTOWN ZONING REGULATIONS

Section 1. Purpose and Intent. The purpose of this Ordinance is to amend the provisions of Sections 1005 and 1010 of the Hermantown Zoning Regulations to incorporate the policy recommendations of the City Council pertaining to flag lots.

Section 2. Amending. Section 1005 of the Hermantown Zoning Regulations is hereby amended to:

1005.01.5. "Flag Lot" means a lot containing an area shaped like a "flag" which is the portion of the lot where all structures are to be located and an area shaped like a "pole" which is the portion of the lot where the vehicular access between the flag and its adjoining road shall be located.

Section 3. Amending. Section 1010.04 of the Hermantown Zoning Regulations is hereby amended to:

1010.04.11.4. Upon receipt of a complete application, the Zoning Officer will set a date for a public hearing before the Planning and Zoning Commission. Not less than ten days before the public hearing, the City will publish a notice in the official newspaper and send notice by mail to the Applicant and to the owners of all property wholly or partially within 350 feet of the property to be subdivided. The Hermantown Police and Fire Department will be notified at the same time.

1010.04.11.5. Decision by Planning and Zoning Commission. Following the hearing, the Planning and Zoning Commission shall make its decision on an application for a Flag Lot. Action shall be my majority vote of the members present and voting.

1010.04.11.6. Appeal to Council. The decision of the Planning and Zoning Commission shall be subject to appeal to the City Council by any person or persons, jointly or severally aggrieved by any decision of the Planning and Zoning Commission, or any taxpayer, officer, department, board or bureau of the City under the procedures as set forth for appeals from decisions of the Board of Appeals and Adjustments under Section 355 of this code.

1010.04.11.7 Review by Council. The City Council, upon its own motion, may review any action of the Planning and Zoning Commission made under this section. Such review shall be initiated within ten days of the date of the decision by the Planning and Zoning Commission by the majority vote of those Council members present and voting on the matter.

1010.04.11.8 Procedures. Upon a review of any such action of the Planning and Zoning Commission, the City Council shall proceed in accordance with the procedures set forth in Section 355 of this code.

1010.04.11.9 Finality. A decision by the Planning and Zoning Commission under this section

shall not be final until any appeal period specified herein shall have expired. No action shall be taken by any party in reliance on any such decision of the Planning and Zoning Commission until it shall be final.

Section 7. Added to the City Code. The terms and provisions of this ordinance shall be amended in the appropriate place in the Hermantown City Code, after adoption and becoming effective.

Section 8. Effective Date. The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown and upon recording with the St. Louis County Recorder's Office.

Dated:

Mayor

Attest:

City Clerk

Adopted:

Published: _____

Effective Date: _____



5C. Public Hearing to solicit comments on the Joint Airport Zoning Board (“JAZB”) proposed Duluth Airport Draft Zoning Ordinance

Applicant: Joint Airport Zoning Board

Case No.: 2020-36

Staff Contact: Eric Johnson, Community Development Director

Request: Conduct a Public Hearing in order to provide review and comment on the proposed Draft Zoning Ordinance for the Joint Airport Zoning Board (“JAZB”).

BACKGROUND

The State of Minnesota has protective legislation to prevent incompatible development around airports. Since 1943, airports in Minnesota have been required by state statute to enact safety zoning and in 1973, zoning was made a condition for airports to receive federal and state funding.

The purpose of the ordinance is to regulate and restrict the height of structures and objects of natural growth and otherwise regulate the use of property in the vicinity of the Duluth International Airport by creating the appropriate zones and establishing the boundaries thereof. Additional details are as set forth below:

In 2019, the Minnesota legislature enacted amendments to the State Airport Zoning Legislation that permits individual airports to create custom zoning regulations for the individual airport.

JOINT AIRPORT ZONING BOARD

A Joint Airport Zoning Board (JAZB) is tasked with developing a zoning ordinance for land uses around an airport as described in Minnesota Statute 360.061 through 360.074 and Minnesota Rules 8800.1200 and 8800.2400. A JAZB is comprised of representatives from the cities, counties and/or townships that control land use development around an airport and is comprised of the member communities of Hermantown, Duluth, Rice Lake, Canosia Township and St. Louis County.

Through a collaborative process, a JAZB seeks to develop an airport zoning ordinance that achieves a balance between providing a reasonable level of safety while allowing for compatible community development.

JAZB has been reviewing the existing Zoning Ordinance in order to amend the original document which was created in 1988. An initial draft of an amended Ordinance was prepared in 2015 to revise the zoning regulations and accommodate the DAA’s proposed extension of runway 3-21. The consideration of the

2015 draft was put on hold when the DAA decided to rebuild Runway 9-27 instead of extended Runway 3-21.

JAZB has created a Draft Custom Zoning Ordinance pursuant to the 2019 legislation which received approval from JAZB in July 2020. JAZB has asked each member community of JAZB to solicit comments from their communities on the JAZB draft ordinance.

Comments received at the August 18, 2020 Hermantown Public Hearing will be forwarded to JAZB for its consideration at their September 3, 2020 meeting. JAZB will then decide whether to modify the proposed JAZB draft ordinance and/or schedule a public hearing on their own behalf.

The final JAZB Ordinance will then be submitted to Minnesota Department of Transportation (MnDOT) for its review and approval. The affected Hermantown property owners will be kept apprised of any developments regarding the review by MnDOT through communications on the Hermantown webpage and future public hearings as material changes are made.

Once the JAZB Ordinance is approved by MnDOT, it will then be used as the basis for Hermantown zoning regulations. This will require comprehensive amendments to the Hermantown Zoning Code, review by the Planning Commission, one or more public hearings and ultimately adoption by the City Council. Furthermore, the Hermantown Comprehensive Plan will have to be reviewed and Comprehensive Plan amendments required by State law regarding airport zoning and otherwise with respect to the impact of the state-mandated airport zoning in Hermantown will be developed. It is intended that the Comprehensive Plan amendments will be considered in the next six (6) months. This will also require a public hearing and adoption by the Planning Commission and City Council. It is our hope that there will be no surprises to the Hermantown property owners when the Hermantown Airport Zoning Ordinance amendments and Comprehensive Plan amendments are reviewed and presented at public hearings because of the hearing that will be held on August 18, 2020 and ongoing communications with the affected property owners.

It is expected that the entire process of considering the JAZB Ordinance, review by MnDOT, revisions to the JAZB Ordinance and ultimate approval by MnDOT is expected to take a number of months.

EXPLANATION OF AIRPORT ZONING

MnDOT has established safety zones associated with both ends of the runways by state statute and administrative regulations. The north/south runway is known as 3-21 with the east/west runway is known as 9-27. These safety zones dictate the extent of permitted uses as well as the height of any structures within each zone.

STATUTORY STANDARD ZONING		
	Description	Use restrictions
Zone A	In the approach zones of a runway, safety Zone A extends outward from the end of the primary surface a distance equal to two thirds the runway length or planned runway length.	No permanent or temporary building structures; 'cars and cows only'.
		No assembled groups of people.
Zone B	In the approach zones of a runway, safety Zone B extends outward from	Minimum Lot Size 3 acres

	safety zone A a distance equal to one third the runway length or planned runway length.	
		Shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage
		Shall not have more than one building plot upon which any number of structures may be erected.
		Prohibited Uses: Churches, Hospitals, schools, theaters, stadiums, hotels or motels, trailers courts, campgrounds, and other places of public or semipublic assembly
Zone C	Surrounds the airport with a varying distance.	Height restrictions

The Airport has been discussing the lengthening the runways with the plan to lengthen runway 3-21 from 5,718 feet to 8,000 feet. The need for the longer 3-21 runway is driven by the fact that the Airport will need an alternative 8,000 foot runway for commercial and 148th operations and to accommodate cross wind scenarios.

1988 Safety Zones

Per the 1988 Zoning Ordinance, the length of A & B Safety Zones for the 3-21 runway were established based on the current 5,718 foot runway. The ordinance provided for excepted properties within the B Zone which were not subject to the B zones guidelines and had C zone restrictions instead. These properties include Skyline Bowling Alley, Gordy's Market, Harley Davidson and Marcus Lakes Cinema 10 Theater. (Exhibit 1)

Zoning Ordinance Amendment

The 1988 Zoning Ordinance was amended in the mid 1990s, however the amended ordinance was not recorded and as a result is only applicable to the administration of the ordinance and does not change land use regulations.

2019 State Amendment

The State of Minnesota, in the 2019 First Special Session amended portions of Chapter 360 Airports and Aeronautics, Chapter 394 Planning, Development, Zoning, Chapter 462 Planning, Zoning and Chapter 473 Metropolitan Government. Specific amended sections include:

- Section 360.062 – strikes language pertaining to established residential neighborhoods;
- Section 360.063 – strikes distance references pertaining to regulation of building location, size and use within airport hazard area;
- Section 360.064 – language revision from may to must;
- Section 360.065 – adds joint airport zoning board as a entity to regulate, adopt, amend or change zoning regulations. Adds language pertaining to public hearings and notice of hearing requirements.
- Section 360.0655 – adds language pertaining to Commissioner's review of zoning regulations as it relates to standard or custom zoning;

- Section 360.0656 – adds language pertaining to custom airport zoning standards.
- Section 360.066 – strikes language pertaining to reasonableness of defining airport hazard zones;
- Section 360.067 – adds language pertaining to the ability for a municipality, county or joint airport zoning board to permit work/tree growth without a variance from height restrictions if the Federal Aviation Administration (FAA) analyzed the work/tree growth and determined it does not pose a hazard or require changes to airport or aircraft operations or require mitigation by the FAA that cannot be satisfied by the landowner;
- Section 360.071 – addresses membership for a board of appeals;
- Section 360.305 – addresses expenditure of funds by Commissioner for planning, acquisition, construction, improvement or maintenance of airports or air navigation facilities;
- Section 394.22 – adds language defining airport safety zone;
- Section 394.23 – adds language pertaining to requirements to consider location of airport safety zones;
- Section 394.231 – adds language encouraging land uses in airport safety zones that are compatible with safe operation of the airport;
- Section 394.25 – adds language requiring that airport safety zones must be included on maps that illustrate boundaries of zoning districts;
- Section 462.352 – defines location of airport safety zone meaning;
- Section 462.355 – adds language pertaining to preparation or amendments to comprehensive plans that planning agencies must consider the location and dimensions of airport safety zones and any airport improvements;
- Section 462.357 – adds language requiring that airport safety zones must be shown on zoning district maps. Also adds language encouraging land uses in airport safety zones that are compatible with safe operation of the airport;
- Section 473.386 – This pertains to metropolitan communities and is not applicable to the area encompassed by the DAA.

Standard MnDOT Safety Zones

The extended 3-21 runway scenario under the Standard MN DOT Zoning, would extend the A Safety Zone approximately 3,000 feet to the south and would encompass Skyline Bowling Alley, Gordy's Market, Harley Davidson and Marcus Lakes Cinema 10 Theater which were previously in the exempted B Zone. Likewise, the B Safety Zone would also extend approximately 3,000 feet to the south and would include all of the Heartwoods residential development and 1/3 of the Timber Trails development. (Exhibit 2).

The City has long been vocal in its concerns about how MN DOT Standard Zoning particularly how the expanded A Safety Zone affects the existing businesses at Miller Trunk Highway and Stebner Road. The proposed Standard Zoning would make these structures and uses non-conforming could affect the ability of these businesses to continue operation, will entitle these businesses to be compensated for the reduction in value of their property and businesses by Minnesota law and will cause a significant reduction in the tax base for their property. Other concerns include:

- Safety of business and residents in the expanded zones;
- Liability – City will need to be part of this process;
- Safety Issues;

Custom Zoning – Proposed Draft Ordinance

The state law enacted in 2019 allowing Custom Zoning would better integrate airport zoning with local zoning and planning processes. The Custom Zoning would allow for increased flexibility for each airport to enact airport zones that are appropriately sized for that airport's needs. The JAZB Draft Zoning Ordinance reflects custom zoning.

The JAZB Custom Zoning Ordinance must still satisfy land use criteria and still provide a reasonable level of safety.

Proposed changes in the JAZB Custom Zoning Ordinance as compared to the current 1988 Zoning Ordinance, as amended and standard zoning, include:

- Safety Zones A, B and C are now being referred to as Safety Zones 1, 2 and 3 respectively;
- Modifications to the Safety Zones for Runway 3 which eliminates Safety Zone 2 (B);
- Changes Airport Zoning Administrator (City of Duluth) to Local Airport Zoning Administrator (designated person within each member community to administer airport zoning);
- Decreases lot size restrictions in Safety Zone 2 (B) for the end of Runway 9 from a minimum of 3 acres to 2.5 acres;
- Increases site population in Safety Zone 2 (B) for the end of Runway 9 from 15 persons per acre to 20 persons per acre;
- Modifies the variance process to involve the Local Airport Zoning Administrator as well as the JAZB Board of Appeals;
- Defines the Local Airport Zoning Administrator duties to enforce the regulations of the applicable Local Airport Zoning Ordinance within each community – each member community is responsible for airport zoning within its community as opposed to Development Zoning Administrator under the 1988 ordinance, as amended;
- Revises JAZB Safety Zone Maps to reflect new Safety Zone designations and sizes. Prepared by the JAZB consultant – RS&H. (Exhibits 3 – 5).

Hermantown staff has overlaid the RS&H proposed Safety Zone maps with the existing Safety Zone maps (Exhibits 6 – 7).

ATTACHMENTS:

- Exhibit 1 - June 18, 1988 Duluth International Airport Zoning Ordinance
- Exhibit 2 - July 14, 2020 JAZB Draft Ordinance
- Exhibit 3 - 1988 Existing Safety Zone Map
- Exhibit 4 - Standard MN DOT Safety Zone Map
- Exhibits 5 – 7 RS&H Airport Zoning Plans
- Exhibit 8 - Custom Zoning Map
- Exhibit 9 2019 State Law Amendment

EXHIBIT 1

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD OF:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

TOWNSHIP OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: JUNE 18, 1988

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DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

CREATED BY THE

CITY OF DULUTH - CITY OF HERMANTOWN - CANOSIA TOWNSHIP
RICE LAKE TOWNSHIP - ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE CITY OF DULUTH - CITY OF HERMANTOWN - CANOSIA TOWNSHIP - RICE LAKE TOWNSHIP - ST. LOUIS COUNTY JOINT AIRPORT ZONING BOARD PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS:

SECTION I: PURPOSE AND AUTHORITY

The City of Duluth - City of Hermantown - Canosia Township - Rice Lake Township - St. Louis County Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Boards of Canosia and Rice Lake pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. An airport hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus

tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.

- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Duluth International Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power.

SECTION II: SHORT TITLE

This Ordinance shall be known as "Duluth International Airport Zoning Ordinance." Those sections of land affected by this Ordinance are indicated in "Exhibit A" which is attached to this Ordinance.

SECTION III: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

"AGRICULTURAL USES" means any customary agricultural uses except the raising, keeping and/or feeding of animals or fowl.

"AIRPORT" means the Duluth International Airport located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14.

"AIRPORT BOUNDARY" means those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated on Sheet 3 - Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1438 feet above mean sea level.

"AIRPORT HAZARD" means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

"AIRPORT ZONING MAP" means the Duluth International Airport Zoning Map consisting of six sheets, dated April 18, 1988, revised May 23, 1996 and adopted as part of the Duluth International Airport Zoning Ordinance. The six sheets are individually titled:

- Sheet 1 - Imaginary Surfaces Plan
- Sheet 2 - Imaginary Surfaces Sections
- Sheet 3 - Height Limitation Zoning Plan
- Sheet 4 - Land Use Safety Zones
- Sheet 5 - Detailed Land Use Safety Zones
- Sheet 6 - Parcel ID Map

"BUILDING HEIGHT" means the vertical distance measured from the finish grade to the highest point of the structure including antennas, satellite dishes, solar collectors, spires, tanks, chimneys, flag poles, towers, signs, or other appurtenances.

"CHIEF ZONING ADMINISTRATOR" means the principal building official from the City of Duluth whose duties shall be to coordinate, maintain records, and monitor the administration and enforcement of the regulations prescribed in this Ordinance.

"COMMERCIAL OR INDUSTRIAL USES" means any use as defined and permitted by Chapters 10, 11, and 12 of the Uniform Building Code, 1973, as adopted by the State of Minnesota.

"DEPUTY ZONING ADMINISTRATOR" means the zoning officer designated by a local jurisdiction whose duties shall be to administer and enforce the provisions of this Ordinance within his/her respective jurisdiction.

"DWELLING" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

"EXCEPTED PARCEL" means any parcel of land exempted from any or all of the regulations imposed by this Ordinance because the Joint Airport Zoning Board determines that the otherwise applicable requirements or proscriptions are not reasonably necessary to effectuate the purposes of the Ordinance by reason of character of flying operations expected to be conducted, the location of the Airport, the nature of the terrain within the Airport hazard area, existing land uses and character of the neighborhood around the Airport, the uses to which the property to be zoned are planned and adaptable, and the social and economic costs of restricting land use versus the benefits derived from a strict application of the Ordinance, as authorized by Minnesota Statutes 360.066, Subd. 1. The use of such parcels shall continue to be restricted as set forth in Sections IV-B, V-BI, VII-B and XVI-B of this ordinance.

"HAZARD TO AIR NAVIGATION" means any object which has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

"HEIGHT" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"LANDING AREA" means the area of the airport used for the landing, taking off or taxiing of aircraft.

"LIGHT OUTDOOR RECREATION" means any recreational or sports activity which does not create, attract or bring together a site population in excess of 15 persons per acre during the same time period.

"LOW DENSITY RESIDENTIAL LOT" means a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

"NAVIGABLE AIRSPACE" means airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

"NON-CONFORMING USE" means any structure, tree, natural growth, or use of land lawfully existing prior to adoption of this ordinance which is inconsistent with or prohibited in such location by the provisions of this Ordinance or an amendment hereto.

"NON-PRECISION INSTRUMENT RUNWAY" means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

"PERSON" means an individual, firm partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

"PLANNED" as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

"PRECISION INSTRUMENT RUNWAY" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). Also, a runway for which such a precision instrument approach system is Planned.

"RUNWAY" means any existing or planned paved surface or turf-covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

"SITE" means a parcel or several adjoining parcels of land under common ownership.

"SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

"STRUCTURE" means an object constructed or installed by man, including, but not limited to buildings, towers, antennas, satellite receiving dishes, smokestacks, and overhead transmission lines.

"TRAVERSE WAYS" for the purpose of determining height limits as set forth in this Ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

"TREE" means any object of natural growth.

"UTILITY RUNWAY" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

"VISUAL RUNWAY" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument approach procedure and no instrument designation planned.

"WATER SURFACES" for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

SECTION IV: AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: Since structure and tree heights must be regulated to protect aircraft from navigational hazards during landings and departures, a number of airspace zones must be established for this purpose. In order to carry out the purposes of this Ordinance, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 1,000 feet for Runways 9-27 and 3-21.
2. HORIZONTAL SURFACE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1578 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 10,000 feet for Runways 9-27 and 3-21.

revised 5/23/96

3. CONICAL ZONE: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.
4. APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface.
5. PRECISION INSTRUMENT APPROACH ZONE: All that land which lies directly under an existing or planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Runway 9-27 and Runway 3-21, precision instrument runways. The inner edge of the precision instrument approach surface is at the same width and elevations as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of 10,000 feet expanding uniformly to a width of 4,000 feet, then continues upward and outward for an additional horizontal distance of 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of 16,000 feet.

6. **TRANSITIONAL ZONE:** All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of 3,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline.
- B. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace created in Subsection IV-A so as to project above any of the imaginary airspace surfaces described in said Subsection IV-A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.
- C. **BOUNDARY LIMITATIONS:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

SECTION V: LAND USE SAFETY ZONING

- A. **SAFETY ZONE BOUNDARIES:** Safety zones are created to protect the surrounding community and to assist aircraft in the event of emergency landings. Safety zones seek to limit the population and building density, thereby reducing the chances for loss of life and creating emergency landing areas for aircraft. In order to carry out the purpose of this Ordinance, there are hereby created and established the following safety zone boundaries:
1. **SAFETY ZONE A:** All land in that portion of the approach zones of a runway, designated as Safety Zone A on the Airport Zoning Map.
 2. **SAFETY ZONE B:** All land in that portion of the approach zones of a runway, designated as Safety Zone B on the Airport Zoning Map.

3. SAFETY ZONE C: All that land which is enclosed within the perimeter of the horizontal zone as defined in subsection IV-A hereof and which is not included in Zone A, Zone B or the Exempted Parcels referred to in Section XVI below and as designated as Safety Zone C on the Airport Zoning Map.

B. USE RESTRICTIONS

1. GENERAL: Subject at all times to the height restrictions set forth in Subsection IV-B, no use shall be made of any land in any of the safety zones defined in Subsection V-A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. ZONE A: Subject at all times to the height restrictions set forth in Subsection IV-B and to the general restrictions contained in Subsection V-B-1, areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture, horticulture, wildlife habitat, animal husbandry, raising of livestock, light outdoor recreation, cemeteries, auto parking, open space, and natural areas.
3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV-B, and to the general restrictions contained in subsection V-B-1, areas designated as Zone B shall be restricted in use as follows:
 - a. Each use shall be on a site whose area shall not be less than two-and-one-half acres.
 - b. Each use shall not create, attract, or bring together a site population that would normally exceed 15 times that of the site acreage at any one time.

1) The determination of the normal site population for a proposed use shall be made by the Deputy Zoning Administrator and shall be based on the seating capacity for those areas with fixed seats or on the following standard whichever is appropriate:

(i) For uses involving fixed booths, benches or pews, the occupant load shall be not less than the number of seats available based on one person for each 18 inches of length of pew or bench. Where booths are used in dining areas, the occupant load shall be based on one person for each 24 inches of booth length or major portion thereof.

(ii) For all other uses, the site population shall be determined by dividing the floor area of all structures on the site expressed in square feet divided by the appropriate "Use Factor" set forth below.

Table of Use Factors

Source: Uniform Building Code

<u>Use</u>	<u>Use Factor</u>
Aircraft Hangars	500
Auction Rooms	7
Assembly Areas, Concentrated Use (without fixed assets)	7
Auditoriums	
Bowling Alleys (assembly areas)	
Churches and Chapels	
Dance Floors	
Lodge Rooms	
Reviewing Stands	
Stadiums	
Assembly Areas, Less Concentrated Use	15
Conference Rooms	
Dining Rooms	
Drinking Establishments	
Exhibit Rooms	
Gymnasiums	
Lounges	
Stages	
Children's Homes and Homes for the Aged	80
Classrooms	20
Dormitories	50
Dwellings	300
Garage, Parking	200
Hospitals and Sanitariums/Nursing Homes	80
Hotels and Apartments	200
Kitchen - Commercial	200
Library Reading Room	50
Locker Rooms	50
Mechanical Equipment Room	300
Nurseries for Children (Day-care)	35
Offices	100
School Shops and Vocational Rooms	50
Skating Rinks	50 on the skating area; 15 on the deck
Stores - Retail Sales Rooms	
Basement	20
Ground Floor	30
Upper Floors	50
Swimming Pools	50 for the pool area; 15 on the deck
Warehouses	300
Lobby Accessory to Assembly Occupancy	7
Malls (see Appendix Chapter 7 U.B.C.)	
All Others	100

Example: To determine normal occupancy of 2400-square-foot office building

$$2400 \div 100 = 24 \text{ (normal occupancy load)}$$

- 2) Where an intended use is not listed, the Deputy Zoning Administrator shall establish an occupant load factor based on a listed use which most nearly resembles the intended use.
- c. Each site shall have no more than one building plot upon which any number of structures may be erected.
- d. A building plot within a land parcel shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose developed area shall not exceed the following minimum ratios with respect to the total site area:

<u>Site Area at least (Acres)</u>	<u>But Less Than (Acres)</u>	<u>Ratio of Site Area to Bldg. Plot Area</u>	<u>Max. Site Population to Acreage Ratio (15 Persons/A)</u>
2.5	4	12:1	15:1
4	6	10:1	15:1
6	10	8:1	15:1
10	20	8:1	15:1
20	and up	4:1	15:1

(EXAMPLE - Total Site Acreage is 5 acres, then total building plot size is .5 acres (21,780 square feet) based on 10:1 ratio. Type of use shall not normally attract a population in excess of 75 people at one time based on 15:1 population ratio.)

- e. The following uses are specifically prohibited in Zone B: churches, synagogues, hospitals, nursing homes, schools, lodges, theaters, stadiums, hotels and motels, trailer courts, campgrounds, amusement parks, auditoriums, libraries, sports arenas and other places of frequent public or semipublic assembly. A place of public or semi-public assembly is defined as a building or portion of a building used for the gathering together of persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining, or awaiting transportation.
4. ZONE C: Zone C is subject only to height restrictions set forth in Subsection IV-B, and to the general restrictions contained in Subsection V-B-1.

C. BOUNDARY LIMITATIONS: The land use zoning restrictions set forth in this section shall apply for a distance not to exceed one mile beyond the

perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary.

SECTION VI: AIRPORT ZONING MAP

The several zones herein established are shown on the Duluch International Airport Zoning Map consisting of six sheets prepared for the Joint Airport Zoning Board, on April 18, 1988 and revised on May 23, 1996, attached hereto and made a part hereof. Said map, together with such amendments thereto as may from time to time be made, and all notations, referencas, elevation, data, zone boundaries, and other information thereon, shall here in this Ordinance be referred to as the Airport Zoning Map and the same is hereby adopted as part of this Ordinance.

SECTION VII: NON-CONFORMING USES AS OF ENACTMENT

- A. GENERAL: The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within two years thereof.
- B. PROHIBITED USES ON EXCEPTED PARCELS: In addition to the foregoing, nothing herein shall prohibit the expansion of prohibited uses on excepted parcels, as defined in Subparagraph 3 of Paragraph B of Section XVI below, if such prohibited use existed as of the effective date of this Ordinance and if such expansion is permitted by applicable local zoning regulations but no other prohibited use as defined in that subparagraph may be added to or substituted for said pre-existing prohibited use after the effective date of this Ordinance.
- C. ACQUISITION IN SAFETY ZONE A: Any land use in Safety Zone A is hereby deemed to be a potential safety hazard and any building lot in Safety Zone A may, therefore, be acquired at public expense.

SECTION VIII: PERMITS

A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use or land and no structure shall be erected, altered, or otherwise established or tree be allowed to grow in any zone hereby created unless an application for an airport zoning permit shall have been made and the permit granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information with respect to the proposed project to permit a determination as to whether it conforms to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

1. A permit for a tree of less than 75 feet of vertical height above ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone.
2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit the growth of any tree in excess of any of the height limitations established by this Ordinance set forth in Section IV.

B. EXISTING USES: Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change or repair. All applications for such a permit shall be granted if the proposed replacement, change or repair inclusive with the existing use or structure conforms with the provisions set forth in Sections IV-B and V-B. A permit to rebuild a structure which has been damaged or destroyed by fire or other casualty shall be granted if the rebuilding will not create a greater airport hazard or hazard to air navigation than it was prior to the casualty loss.

No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the

application for a permit is made. A proposed replacement, change or repair inclusive with the existing use" which by virtue of the proposed action would not comply with the provisions set forth in Sections IV-B and V-B shall be considered to be the establishment or creation of a greater airport hazard or greater hazard to air navigation than on the effective date of this Ordinance.

C. APPLICATIONS:

1. Reviews:

All applications for permits for the construction, addition, alterations or repair of any structure or the growth of any tree within the zones defined and controlled by this ordinance shall be reviewed by the Deputy Zoning Administrator.

2. Submit with Permit:

All applications for airport zoning permits shall be accompanied by accurate plot plans, submitted in triplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the structures then existing and the lines within which the proposed structure or tree shall be erected, altered, or grown, its proposed height, the existing and intended use of each structure or part of a structure, the number of families or housekeeping units the structure(s) is designed to accommodate and such other information as may be necessary to determine and provide for the enforcement of this Ordinance. One copy of such plot plans shall be returned to the owner when such plans have been approved. An inspection period of 15 business days shall be allowed for inspection of plans before a permit shall be issued. Applicant shall receive a response from the Deputy Zoning Administrator within fifteen (15) business days. The failure of the Deputy Zoning Administrator to respond within this specified time will result in the automatic submittal of the application to the Joint Airport Zoning Board.

Exception: The Deputy Zoning Administrator may waive the submission of plans if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Ordinance.

3. Other Permits:

Permits issued under this Ordinance will not relieve the permittee of any responsibility of obtaining permits or paying fees required under any other applicable ordinance or law.

- D. **NON-CONFORMING USES ABANDONED:** Notwithstanding the provision of Paragraph B above, whenever the Deputy Zoning Administrator determines that a non-conforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the Deputy Zoning Administrator may order the owner of such structure or tree, at the owner's expense, to lower, remove, reconstruct or equip the same in the manner necessary to conform to the provisions of this Ordinance. In the event the owner of such structure or tree shall fail to comply with the order for fifteen days after transmission of written notice of the order, the Deputy Zoning Administrator may, by appropriate legal action, proceed to have such structure or tree lowered, removed, reconstructed or equipped and assess the cost and expense thereof against the land on which the structure or tree is or was located. Unless such assessment is paid within ninety (90) days from the service of notice on the agent or owner of the land, the sum shall bear interest at the prevailing legal rate per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

SECTION IX: VARIANCES

A. Application and Granting:

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in the Ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. An applicant shall submit an application for a variance by certified mail to the Deputy Zoning Administrator of the appropriate jurisdiction who shall forward it together with his recommendations to the Chief Zoning Administrator for action by the Board of Adjustment. If the Board of

Adjustment fails to grant or deny the variance within 60 calendar days after the Chief Zoning Administrator receives the application, the variance shall be deemed to be granted. When the variance is granted by reason of the failure of the Board of Adjustment to act on the variance, the person receiving the variance shall notify the Joint Airport Zoning Board and the Minnesota State Commissioner of Transportation (the "Commissioner") by certified mail that the variance has been so granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 calendar days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6a, "Procedure when Zoning Board Fails to Act." Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and that the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of this Ordinance; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment or Commissioner may deem necessary to effectuate the purpose of this Ordinance.

- B. **LIMITATION OF SCOPE:** In the event that a permit application is denied by the Deputy Zoning Administrator because it violates the terms of this airport zoning ordinance and the terms of any other applicable regulation, the applicant must receive a variance from the Board of Adjustments, as provided for herein and any other permit, variance or other approval so required before the activity sought to be permitted is undertaken.

SECTION X: HAZARD MARKING AND LIGHTING

- A. **NON-CONFORMING USES:** The owner of any non-conforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Chief Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards.
- B. **PERMITS AND VARIANCES:** IF such action is deemed advisable to effectuate the purpose of this ordinance and is reasonable in the circumstances, the Deputy Zoning Administrator or Board of Adjustment, as the case may be,

may condition any permit or variance granted so as to require the owner of the structure or tree in question at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION XI: AIRPORT ZONING ADMINISTRATOR

A. CHIEF ZONING ADMINISTRATOR: It shall be the duty of the Chief Zoning Administrator who shall be the principal building official of the City of Duluth or his authorized representative to administer and enforce the regulations prescribed herein. The Chief Zoning Administrator shall serve at the direction of the Joint Zoning Board and shall be accountable to the Board in the administration of this Ordinance.

It shall be the duty of the Chief Zoning Administrator to:

1. Coordinate and monitor the overall administration and enforcement of the regulations for the Joint Airport Zoning Board.
2. Review all permit applications granted or denied by the Deputy Zoning Administrator for conformance with the provisions of this Ordinance and to report any non-conformities to the Joint Airport Zoning Board.
3. Maintain a central permanent file of all official records related to the provisions of this Ordinance.
4. Provide clerical and technical assistance in the pursuit of his duties.
5. Disseminate information, revisions, amendments, recording requirements and other procedures or forms as necessary to the Deputy Zoning Administrator.
6. Provide a certified copy of permits and variances granted to the County Recorder of St. Louis County.
7. Serve as an ex officio member of the Board of Adjustment and act as Secretary for said Board.
8. Act as Deputy Zoning Administrator within the City of Duluth.

Should a local governmental jurisdiction fail to designate a Deputy Airport Zoning Administrator, or in the event of a vacancy of said position, the Chief Zoning Administrator or his authorized representative

upon approval by the Joint Airport Zoning Board shall administer and enforce the regulations prescribed herein within that jurisdiction.

B. DEPUTY ZONING ADMINISTRATOR: Each governmental jurisdiction whose land is affected by this Ordinance shall designate a local representative from their zoning or building inspection department who shall serve as Deputy Zoning Administrator, who shall coordinate with the Chief Zoning Administrator and who shall administer and enforce within his jurisdiction the regulations prescribed herein. Applications for permits and variances shall be made to the respective Deputy Zoning Administrator upon a form furnished by him.

It shall be the duty of the Deputy Zoning Administrator to:

1. Review all applications for permits together with supporting documents and promptly grant or deny them based upon conformance with the provisions of this Ordinance.
2. Issue Airport Zone Permits for those applications granted by him.
3. Transmit variance applications and supporting documents to the Chief Zoning Administrator.
4. Maintain a current file of all permits and all copies of notices of violation for such time as necessary to insure continuous compliance with the provisions of this Ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
5. Periodically inspect buildings and uses of land to determine compliance with the terms of this Ordinance. The Deputy Zoning Administrator shall have the power to enter at reasonable times upon any private or public property for the purpose of investigating conditions relating to the enforcement of this Ordinance.
6. Notify, in writing, any person responsible for violating a provision of this Ordinance, indicating the nature of the violation and ordering the action necessary to correct it.
7. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions or alterations; order discontinuance of illegal work being done; or take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

8. Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, special uses, and variations.
9. Provide clerical and technical assistance in the pursuit of his duties.

A copy of all permit and variance applications and supporting documents shall be submitted within five (5) business days to the Chief Zoning Administrator by the Deputy Zoning Administrators. A copy of all approvals, denials and notice of violations shall similarly be submitted to the Chief Zoning Administrator within five (5) business days by the Deputy Zoning Administrator.

In the event that a Deputy Zoning Administrator willfully or knowingly circumvents or fails to enforce the regulations prescribed herein or neglects the duties entrusted to him by this Ordinance, Joint Airport Zoning Board shall relieve him of his duties, notify the appropriate governmental jurisdiction, and if such jurisdiction does not appoint a replacement Deputy within ten (10) days, the Joint Zoning Board shall then be empowered to replace said Deputy Zoning Administrator or take responsible charge of administration and enforcement of the Airport Zoning Ordinance within that jurisdiction.

SECTION XII: BOARD OF ADJUSTMENT

- A. ESTABLISHMENT: The members of the Board of Adjustment shall serve for a term of three years and until their successors are duly appointed and qualified. The Board of Adjustment shall be comprised of one member each appointed by the Cities of Duluth and Hermantown, the Duluth Airport Authority, and the Townships of Rice Lake and Canosia. Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years and two for a term of three years. Upon their appointment, the members shall select a chairman to act at the pleasure of the Board of Adjustment. Members shall be subject to removal by the Joint Airport Zoning Board for just cause, upon written charges, after a public hearing. In addition to the regular members, the Chief Zoning Administrator shall be an ex officio member of the Board and shall act as Secretary for the Board but shall not be entitled to vote on matters presented to the Board.

B. **POWERS:** The Board of Adjustment shall have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Chief or Deputy Zoning Administrators in the enforcement of this Ordinance.
2. To hear and decide specific variances.

C. **PROCEDURES**

1. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Chief Zoning Administrator and shall be a public record. A certified copy of any variance granted shall be transmitted to the Chief Zoning Administrator to be filed with the County Recorder of St. Louis County.
2. The Board of Adjustment shall make written findings of fact upon which it acted and its conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.
3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to uphold or reverse any order, requirement, decision or determination of the Chief or Deputy Zoning Administrator.

SECTION XIII: APPEALS

A. Who May Appeal:

Any person aggrieved, or any taxpayer affected by any decision of the Deputy Zoning Administrator made in the administration of this Ordinance may appeal that decision to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, township, county, authority or airport zoning board which is of the opinion that a decision of the Deputy Zoning Administrator is an improper application of this Ordinance as it concerns such governing body or board.

B. Procedure:

All appeals hereunder must be commenced within 30 days of notice of the Deputy Zoning Administrator's decision by filing with the Deputy Zoning Administrator a notice of appeal specifying the grounds thereof. The Deputy Zoning Administrator shall send a copy of said notice together with his recommendations by certified mail to the Chief Zoning Administrator to be forwarded to the Board of Adjustment together with all the papers constituting the records upon which the action appealed from was taken. In addition, any person aggrieved by any decisions of the Deputy Zoning Administrator made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance by certified mail to the Chief Zoning Administrator as set forth in Section IX above.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Chief Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Chief Zoning Administrator and on due cause shown.

D. Hearing:

The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice, notice to St. Louis County, the municipalities of Duluth and Hermantown, the townships of Canosis and Rice Lake, and to the

Duluth Airport Authority, and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

E. Decisions:

The Board of Adjustment may, in conformity with the provisions of this Ordinance, affirm or reverse, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Deputy Zoning Administrator for the purpose of enforcing the Airport Zoning Ordinance.

SECTION XIV: JUDICIAL REVIEW

Any person, including any taxpayer, affected by any decision of the Board of Adjustment, and the governing body of any municipality, county, authority, or airport zoning board aggrieved by a decision of the Board of Adjustment may appeal that decision to the District Court for St. Louis County by filing a verified pleading setting forth the decision being appealed from and specifying the grounds of the appeal. Such petition shall be filed with the Court within 30 days after the decision is filed in the office of the Chief Zoning Administrator. The Appellant must exhaust the remedies provided in this Ordinance before availing himself of the right to petition the Court as provided by this section.

SECTION XV: PENALTIES

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provisions of this Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree except as permitted by such permit or variance, or fail to install, operate, and maintain markers and lights on new construction or tree growth as stipulated in such permit or variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$700 or imprisonment for not more than 90 days or both.

Each day a violation continues to exist shall constitute a separate offense. The Chief Zoning Administrator or a Deputy Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper: the laws of Minnesota Statutes 360.073 (Violations, Penalties) and other applicable law.

SECTION XVI: EXEMPTIONS

- A. **LANDS USED FOR AERONAUTICAL PURPOSES:** The provisions of the Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota or political subdivisions thereof or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.
- B. **EXCEPTED PARCELS:** The lands designated as excepted parcels on Sheet 5 of the Airport Zoning Map are exempt from the USE RESTRICTIONS of Sections V-B-3. Said parcels are shown on the Airport Zoning Map and are described on Exhibit B attached hereto and made a part hereof. The exemption provided by this Paragraph B of Section XVI shall apply to all subsequent parcels of land created from the above-described parcels. The following restrictions shall apply to the use of Excepted Parcels:
1. Land uses consistent with those designated in any applicable local zoning regulation or which existed as of the effective date of this Ordinance in the Excepted Parcels set forth in Section XVI-B above, and as shown on the Airport Zoning Map are subject to the height restrictions of Section IV-B, and the general restrictions of Section V-B-1.
 2. Land uses not consistent with those designated in any applicable local zoning regulation unless they are in existence as of the date of this Ordinance are subject to the Zone B restrictions in their entirety.
 3. The following uses are specifically prohibited in the excepted parcels: churches, synagogues, hospitals, nursing homes, schools, lodges, theaters, stadiums, hotels and motels, mobile home parks, campgrounds, amusement parks, auditoriums, libraries, sports arenas and other places of frequent public or semi-public assembly. A place of public or semi-public assembly is defined as a building or portion

of a building used for the gathering together of persons for such purposes as deliberation, education, instruction, worship, or awaiting transportation.

SECTION XVII: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION XVIII: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this State or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION XIX: EFFECTIVE DATE

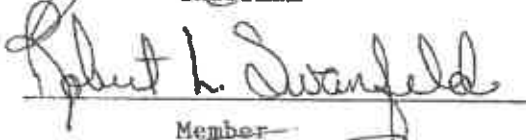
This Ordinance was revised on the 23rd day of May, 1996. Copies thereof shall be filed with the Commissioner of Transportation, Division of Aeronautics, State of Minnesota, and the County Recorder, St. Louis County, Cities of Duluth and Hermantown, Townships of Canosia and Rice Lake, Minnesota.

Passed and adopted after public hearing by the Duluth - Hermantown - Canosia - Rice Lake - St. Louis County Joint Airport Zoning Board this ____ day of _____, 19__.



Chairman

_____ Member



Member

_____ Member



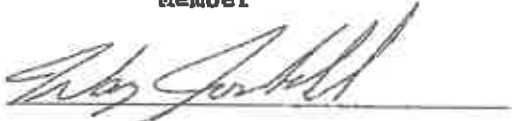
Member

_____ Member



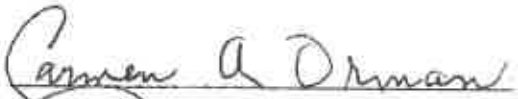
Member

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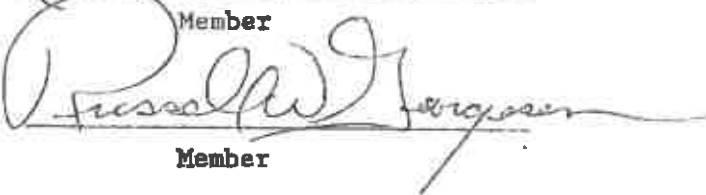


Member

_____ Member



Member



Member

EXHIBIT A
DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

This ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TOWNSHIP	AIRSPACE OBSTRUCTION ZONING: Section IV of Ordinance; Sheet 3 of 6 of Zoning Map.	LAND USE SAFETY ZONING: Section V of Ordinance; Sheet 4 of 6 of Zoning Map.
City of Hermantown Township T50N R15W	Sections: 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16	Sections: 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 22, 23
Canosia Township T51N R15W	Sections: 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36	Sections: 22, 24, 25, 26, 27, 32, 33, 34, 35, 36
Rice Lake Township T51N R14W	Sections: 19, 20, 28, 29, 30, 31 32, 33	Sections: 10, 20, 21, 29, 30, 31 32
City of Duluth Township T50N R14W	Sections: 4, 5, 6, 7, 8, 17, 18	Sections: 4, 5, 6, 7, 8, 9, 18

EXHIBIT B -

The below-described properties are excepted proposals as provided for and described in Section XVI(B). (The number appearing at the end of each parcel description is the St. Louis County Property Identification Number as of the effective date of this ordinance).

- I. The parcels described in this Section of this Exhibit B are all located in Section 11, Township 50 North, Range 15 West, St. Louis County, Minnesota, and are further described as follows:
 - A. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the South line of Miller Trunk Highway with the West line of Stebner Road, thence Northwesterly along said Miller Trunk Highway for a distance of 100 feet, thence Southeasterly to a point on said Stebner Road being 100 feet South of the point of beginning, thence Northerly 100 feet to the point of beginning (395-10-3117).
 - B. The Southerly 575 feet of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ except the Northerly 525 feet of the Easterly 650 feet (395-10-3110).
 - C. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at a point 650 feet West of the East line and 575 feet North of the South line of said NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, thence Westarly 200 feet parallel to the South line of said NE $\frac{1}{4}$ of said SE $\frac{1}{4}$, thence Northerly 675 feet to a point on Miller Trunk Highway which is 942.62 feet Northwesterly of the West line of Stebner Road, thence Southeasterly 200 feet along said Miller Trunk Highway to a point 742.62 feet Northwesterly of the West line of Stebner Road, thence Southerly 550 feet to the point of beginning (395-10-3112).
 - D. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying Southerly of the Southwest right-of-way line of Miller Trunk Highway and Highway 94 except an 11/100-acre tract along highway right-of-way and except a 1-11/100-acre tract along highway right-of-way and except a 2-80/100-acre tract along highway right-of-way and except the Southerly 575 feet lying West of the East 650 feet and except the Southerly 50 feet of the East 650 feet (395-10-3115).
 - E. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the West line of Stebner Road with the South line of Miller Trunk Highway, thence Northwesterly along said road 390 feet, thence Southerly 150 feet, thence Southeasterly 390 feet, thence Northerly 150 feet to the point of beginning, except for 11/100 acre in the Northeast corner (395-10-3116).
- II. The following parcels are located in Section 12, Township 50 North, Range 15 West of the Fourth Prime Meridian, St. Louis County, Minnesota, and are further described as follows:
 - A. The SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (395-10-3430).
 - B. That part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying West of Miller Trunk Highway (395-10-3360).

- C. The $N\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$, except that parcel beginning at the Northeast corner, thence Southerly 329.34 feet, thence Westerly 164 feet, thence Northeasterly to the point of beginning (395-10-3410).
- D. That part of the $W\frac{1}{2}$ of the $W\frac{1}{2}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ lying Southerly of Miller Trunk Highway except $1/100$ acres in the Northwest corner (395-10-3405).
- E. The $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ except that part West of Miller Trunk Highway, except for $21/100$ acres for highway right-of-way, except $3-4/100$ acres at the Southeast corner, except $2-41/100$ acres West of Anderson's Acres Tract North of Miller Trunk Highway and except $10-50/100$ acres platted and except a tract $400' \times 400'$ at the Northwest corner and except $71/100$ acres for a drainage ditch, that lies South of the Easterly extension of the North line of Lot 3, Anderson's Acres Tracts (395-10-3350).
- F. The Easterly 134.63 feet of the West 267.63 feet of that part of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3355).
- G. The Easterly 165.22 feet of the West 432.85 feet of that part of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3356).
- H. The Easterly 100 feet of the Westerly 133 feet of that part of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3354).
- I. That part of the $W\frac{1}{2}$ of the $W\frac{1}{2}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of said Section 12 beginning at the intersection of the Westerly line of said $W\frac{1}{2}$ of the $W\frac{1}{2}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of said section and the Southerly right-of-way line of Miller Trunk Highway, thence Southeasterly along said right-of-way line 24 feet, thence Southwesterly 90 degrees to the right to the aforesaid West line, thence Northerly to the point of beginning (395-10-3400).
- J. That part of the $N\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 12 beginning at the Northeast corner of said $N\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$, thence South along the East line of said $N\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ for a distance of 329.34 feet to a point, thence Westerly 90 degrees to the right for a distance of 164 feet to a point, thence Northeasterly to the point of beginning (395-10-3412).
- III. Lots 1, 2 and 3, Anderson's Acres Tracts, according to the plat on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota (395-15-10).

EXHIBIT 2

July 14, 2020, V. 1

DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

CITY OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: _____

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES
DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988,
recorded in the Office of the St. Louis, Minnesota, County Recorder as Document

No. _____

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**DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE**

CREATED BY THE

**CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP
CITY OF RICE LAKE – ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD**

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD COMPRISED OF THE CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP – CITY OF RICE LAKE – ST. LOUIS COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Duluth International Airport Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth, Rice Lake, and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Board of Canosia pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. The Duluth International Airport is an essential public facility.**
- B. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.**
- C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport.**
- D. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.**
- E. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation**

SECTION 2: SHORT TITLE

This Ordinance shall be known as “Duluth International Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes Chapter 360 (Airports and Aeronautics), Section 360.013 (Definitions), and its successors.

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Confirming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Map- the Duluth International Airport Zoning Map prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet from the end of Runway 9-27 and Runway 3-21 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Duluth International Airport Joint Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation, example detox, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient, example B&Bs with more than six guest rooms, boarding homes with more than ten occupants, congregate living with more than ten hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the average ground elevation adjoining the front wall of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the average height between the eaves and ridge of a gable, hip or gambrel roof.

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance.

Local Airport Zoning Ordinance – means the zoning ordinances adopted by the Cities of Hermantown, Rice Lake and Duluth and St. Louis County, Minnesota, as the case may be, to incorporate the applicable provisions of this Ordinance into the zoning ordinance for such political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of the Ordinance

Non-Conforming Use - any use of a structure or land or arrangement of land and structures legally existing prior to the Effective Date of this Ordinance.

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21. The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending _____ feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement,

sporting events, or similar activities, but excluding air shows. "Public assembly use" does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Safety Zone - The land use safety zones (Zones 1, 2 and 3) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage - Damage of any origin sustained by a Non-Conforming Structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60

percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantially Damaged Structure – means a Non-Conforming Structure that has sustained substantial damage.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Variance – Any modification or variation of application of the Local Airport Zoning Ordinance to a real property structure or use approved in writing by the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning – the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

- A. **BOUNDARY LIMITATION:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
- B. **AIRSPACE ZONES:** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
- C. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be

constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B) . Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

SAFETY ZONE BOUNDARIES INTENT AND SCOPE: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

- A. **SAFETY ZONE 1:** All land in designated as Safety Zone 1 on the Airport Zoning Map, legally described in Exhibit B.
- B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map, legally described in Exhibit B.
- C. **SAFETY ZONE 3:** All that land designated as Safety Zone 3 on the Airport Zoning Map, and as legally described in Exhibit B.
- D. **BOUNDARY LIMITATIONS:** The land use zoning restrictions set forth in this Section 5 shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.
- E. **USE RESTRICTIONS**

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use Safety Zones:

 - 1. **ALL SAFETY ZONES:** No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. **SAFETY ZONE 1:** Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses include, but are not limited to, Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.
3. **SAFETY ZONE 2:**
 - 3.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:
 - 3.1.1 Group A Uses;
 - 3.1.2 Group E Uses;
 - 3.1.3 Group I-2 Uses; and
 - 3.1.4 Group R-1 Uses.
 - 3.2 Density Limitation. Other uses not specifically prohibited by Section 3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.
4. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

SECTION 6: AIRPORT ZONING MAP

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT

- A. **THIS ORDINANCE AND ANY LOCAL AIRPORT ZONING ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any allowed use, lots, structure, or tree pursuant to the DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988, recorded in the Office of the St. Louis, Minnesota, County Recorder as Document No. 0456132 as amended by Ordinance No. _____ dated _____, 20__ and recorded on _____, 20__ as Document No. _____ or

otherwise interfere with the continuance of any such use or structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance or the Effective Date of any Local Airport Zoning Ordinance.

- B. **ACQUISITION IN SAFETY ZONES:** The Duluth International Airport is an essential public facility. Land in Safety Zones 1 or 2 may be acquired by the Duluth Airport Authority at its own expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE OR STRUCTURE, OR TREE

- A. **PERMIT STANDARDS.** Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to the applicable Local Airport Zoning Ordinance. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted.
- B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:
1. Material expansion of an Existing Structure or Use. Permit required.
 2. New structures or uses. Permit required.
 3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
 4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
 5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.
- C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Local Airport Zoning Administrator may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the applicable Local Airport Zoning Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Local Airport Zoning Administrator may take whatever actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

SECTION 9: VARIANCES

- A. **APPLICATION.** Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by the applicable

Local Airport Zoning Ordinance may apply to both the Local Airport Zoning Administrator and the BOA for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA. Variance applications may only be made after an applicable Permit is first denied by the Local Airport Zoning Administrator.

- B. FAILURE OF BOARD TO ACT ON VARIANCE.** This Section 9B is intended to implement the provisions of Minnesota Statutes § 360.063, Subd. 6a and § 360.067, Subd. 2. If a person submits a complete application for a Variance by certified mail to both the Local Airport Zoning Administrator and the BOA fails to grant or deny the Variance within four (4) months after receipt of the application, the Variance shall be deemed to be granted by the BOA, unless the BOA has made its decision within a longer time period authorized in writing by applicant. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Minnesota Department of Transportation Commissioner, by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6(a).
- C. VARIANCE STANDARDS.** The provisions of Minnesota Statutes § 360.067, Subd. 2 shall be applicable to an application for a Variance. Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the applicable Local Airport Zoning Ordinance provided any Variance so allowed may be subject to any reasonable conditions that the JAZB or Commissioner may deem necessary to effectuate the purpose of the applicable Local Airport Zoning Ordinance.

SECTION 10: HAZARD MARKING AND LIGHTING

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the structure or tree or use in question at his/hers/its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

SECTION 11: LOCAL AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by the applicable Local Airport Zoning Ordinance. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning

Ordinance. Variance applications shall be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA.

SECTION 12: BOARD OF ADJUSTMENT FOR THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

A. **Establishment:** The Board of Adjustment (“BOA”) was established pursuant to the 1988 ordinance. The BOA shall consist of five members, one member each appointed by:

1. Canosia Township
2. City of Duluth;
3. City of Hermantown;
4. City of Rice Lake; and
5. Duluth Airport Authority.

Each member shall serve for a term of three years and until his/her successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member at any time, with or without cause. JAZB members may also serve on the BOA.

B. **Powers:** The BOA shall have and exercise the following powers:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of the Local Airport Zoning Ordinance;
- (2) to hear and decide any special exceptions to the terms of the Local Airport Zoning Ordinance upon which the BOA may be required to pass under such Local Airport Zoning Ordinance; and
- (3) to hear and decide Variances.

C. **Majority Vote:** The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or determination of the Local Airport Zoning Administrator, or to make a decision on any matter upon which it is required to pass under the Local Airport Zoning Ordinance or to make a decision on a Variance.

D. **Rules and Procedures:** The BOA shall adopt rules in accordance with the provisions of this Ordinance. Meetings of the BOA shall be held at the call of the chair and at such other times as the BOA may determine. The chair, or if absent, the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the BOA shall be public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the BOA and shall be a public record. Upon their appointment the members of any BOA of adjustment shall select a chair to act at the pleasure of the BOA.

SECTION 13: APPEALS

- A. Who May Appeal:
Any Person directly affected by any decision of the Local Airport Zoning Administrator in connection with the administration of a Local Airport Zoning Ordinance may appeal that decision to the BOA. Such appeals may also be made by any governing body of the Entities.
- B. Procedure:
All appeals hereunder must be commenced in writing within 10 calendar days of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken.
- C. Stay of Proceedings:
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Local Airport Zoning Administrator certifies to the BOA, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate finds that a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA on written notice to the Local Airport Zoning Administrator and on due cause shown.
- D. Hearing:
The BOA shall fix a time for hearing appeals, and then give public notice to the Entities and the Duluth Airport Authority, and written notice by mail to the appellant. At the hearing, any party may appear in person or by agent or by attorney.
- E. Decisions:
The BOA may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of an Local Airport Zoning Administrator.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law provided that such appeal is made within thirty (30) days of the date of the decision of the BOA.

SECTION 15: PENALTIES

- A. **CRIMINAL.** Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a Permit or Variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such Permit or Variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.
- B. **CIVIL.** In addition, a Local Airport Zoning Administrator may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: EXEMPTIONS - AERONAUTICAL PURPOSES

- A. **LAND USED FOR AERONAUTICAL PURPOSES:** The restrictions of this Ordinance or any Local Airport Zoning Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

SECTION 17: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures of trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 18: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this State or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

SECTION 19: ADMINISTRATION

- A. Meetings and hearings of the JAZB and BOA shall be held at the Duluth International Airport.

- B. JAZB and BOA shall be supported by the staff of the Duluth Airport Authority and Duluth City Attorney's Office.
- C. The BOA shall be supported by the staff and legal counsel provided by the Entity in whose jurisdiction the property affected by the Variance is located with respect to the requested Variance.
- D. The BOA shall be supported by the staff of the Duluth Airport Authority and legal counsel provided by the Duluth Airport Authority in connection with any judicial review of any actions of the BOA pursuant to Section 14 hereof.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance. Any such amendments to Entities' zoning shall become effective only after this Ordinance has been approved by the Minnesota Commissioner of Transportation.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the St. Louis County Recorder's Office, which shall occur after approval of the Ordinance by the Commissioner. s. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

Passed and adopted by the Duluth International Joint Airport Zoning Board ("JAZB") on _____ after public hearing by the JAZB, and after approval by the Commissioner.

Chairperson

ATTEST:

Its _____

EXHIBIT A –AFFECTED LAND SECTIONS

This Ordinance affects all of a portion of the following sections of land:

NAME AND NUMBER TOWNSHIP	AIRSPACE OBSTRUCTION ZONING - Section 4 of Ordinance	LAND USE SAFETY OF ZONING - Section 5 of Ordinance
City of Hermantown	Sections:	Sections:
Township	1, 2, 3, 4, 5, 8, 9, 10,	1, 2, 3, 4, 5, 8, 9, 10,
T50N	11, 12, 13, 14, 15, 16	11, 12, 13, 14, 15, 22,
R15W		23
Canosia	Sections:	Sections:
Township	22, 23, 24, 25, 26, 27,	22, 24, 25, 26, 27, 32,
T51N	28, 32, 33, 34, 35, 36	33, 34, 35, 36
R15W		
City of Rice Lake	Sections:	Sections:
Township	19, 20, 28, 29, 30, 31,	10, 20, 21, 29, 30, 31,
T51N	32, 33	32
R14W		
City of Duluth	Sections:	Sections:
Township	4, 5, 6, 7, 8, 17, 18	4, 5, 6, 7, 8, 9, 18
T50N		
R14W		

EXHIBIT B –SAFETY ZONE LEGAL DESCRIPTIONS

A. SAFETY ZONE 1: All land in designated as Safety Zone 1 on the Airport Zoning Map, legally described as:

That part of Section 6, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to the intersection with the north line of the Northeast Quarter of the Southeast Quarter of said Section 6; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said point of beginning; thence North 79 degrees 51 minutes 54 seconds West a distance of 4590.59 feet to said point of beginning.

AND

That part of Section 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the

actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to the intersection with the north line of the Northeast Quarter of the Northwest Quarter of said Section 31; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point of beginning; thence South 39 degrees 24 minutes 09 seconds West a distance of 5184.44 feet to said point of beginning.

AND

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of

1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

AND

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southeasterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

B. SAFETY ZONE 2: All land designated as Safety Zone2 on the Airport Zoning Map, legally described as:

That part of Sections 5, 6, and 8, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along

last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to a point on the north line of the Northeast Quarter of the Southeast Quarter of said Section 6 said point being the actual point of beginning of Zone 2; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said Point "A"; thence South 79 degrees 51 minutes 54 seconds East a distance of 4368.29 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3643.14 feet to the intersection with a line bearing North 83 degrees 04 minutes 25 seconds East from said point of beginning; thence South 83 degrees 04 minutes 25 seconds West a distance of 4667.96 feet to said point of beginning.

AND

That part of Sections 29, 30 and 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to a point on the north line of the Northeast Quarter of the Northwest Quarter of said Section 31 said point being the actual point of beginning of Zone 2; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the

East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point "A"; thence North 39 degrees 24 minutes 09 seconds East a distance of 2905.06 feet; thence North 59 degrees 07 minutes 42 seconds West a distance of 3400.00 feet to the intersection with a line bearing North 22 degrees 20 minutes 27 seconds East from said point of beginning; thence South 22 degrees 20 minutes 27 seconds West a distance of 4156.44 feet to said point of beginning.

AND

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 5245.33 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

AND

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southeasterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southeasterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.

C. SAFETY ZONE 3: All that land designated as Safety Zone 3 on the Airport Zoning Map, including but not limited to land legally described as follows:

- I. That part of Section 11, Township 50 North, Range 15 West, St Louis County, Minnesota, described as follows:
 - A. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the South line of Miller Trunk Highway with the West line Stebner Road, thence Northwesterly along said Miller Trunk Road for a distance of 100 feet, thence Southeasterly to a point on said Stebner Road being 100 feet South of the point of beginning, thence Northerly 100 feet to the point of beginning (395-10-3117).
 - B. The Southerly 575 feet of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ except the Northerly 525 feet of the Easterly 650 feet (395-10-3110).
 - C. Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at a point 650 feet West of the East line and 575 feet North of the South line of said NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, thence Westerly 200 feet parallel to the South line of said NE $\frac{1}{4}$ of said SE $\frac{1}{4}$, thence Northerly 675 feet to a point on Miller Trunk Highway which is 942.62 feet Northwesterly of the West line of Stebner Road, thence Southeasterly 200 feet along said Miller Trunk

- Highway to a point 742.62 feet Northwesterly of the West line of Stebner Road, thence Southerly 550 feet to the point of beginning (395-10-3112).
- D. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ lying Southerly of the Southwest right-of-way line of Miller Trunk Highway and Highway 94 except an 11/100-acre tract along highway right-of-way and except a 1-11/100-acre tract along highway right-of-way and except a 2-80/100-acre tract along highway right-of-way and except the Southerly 575 feet lying West of the East 650 feet and except the Southerly 50 feet of the East 650 feet (395-10-3115).
 - E. That part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ beginning at the intersection of the West line of Stebner Road with the South line of Miller Trunk Highway, thence Northwesterly along said road 390 feet, thence Southerly 150 feet, thence Southeasterly 390 feet, thence Northerly 150 feet to the point of beginning, except for 11/100-acre in the Northeast corner (395-10-3116).
- II. That part of Section 12, Township 50 North, Range 15 West of the Fourth Prime Meridian, St Louis County, Minnesota, described as follows:
- A. The SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (395-10-3430).
 - B. That part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying West of Miller Trunk Highway (395-10-3360).
 - C. The N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, except the parcel beginning at the Northeast corner, thence Southerly 329.34 feet, thence Westerly 164 feet, thence Northeasterly to the point of beginning (395-10-3410).
 - D. That part of the W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying Southerly of Miller Trunk Highway except 1/100-acres in the Northwest corner (395-10-3405).
 - E. The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ except that part West of Miller Trunk Highway, except for 21/100-acre for highway right-of-way, except 3-4/100-acres at the Southeast corner, except 2-41/100-acres West of Anderson's Acres Tract North of Miller Trunk Highway and except 10-50/100-acres platted and except a track 400' x 400' at the Northwest corner and except 71/100-acres for a drainage ditch, that lies South of the Easterly extension of the North line of Lot 3, Anderson's Acres Tracts (395-19-3350).
 - F. The Easterly 134.63 feet of the West 267.63 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3355).
 - G. The Easterly 165.22 feet of the West 432.85 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3356).
 - H. The Easterly 100 feet of the Westerly 133 feet of that part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying North of Miller Trunk Highway except the Northerly 400 feet thereof (395-10-3354).
 - I. That part of the W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 12 beginning at the intersection of the Westerly line of said W $\frac{1}{4}$ of the W $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said section and the Southerly right-of-way line of Miller Trunk Highway, thence Southwesterly along said right-of-way line 24 feet, thence Southwesterly 90 degrees to the right to the aforesaid West line, thence Northerly to the point of beginning (395-10-3400).
 - J. That part of the N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 12 beginning at the Northeast corner of said N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, thence

South along the East line of said N $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ for a distance of 329.34 feet to a point, thence Westerly 90 degrees to the right for a distance of 164 feet to a point, thence Northeasterly to the point of beginning (395-10-3412).

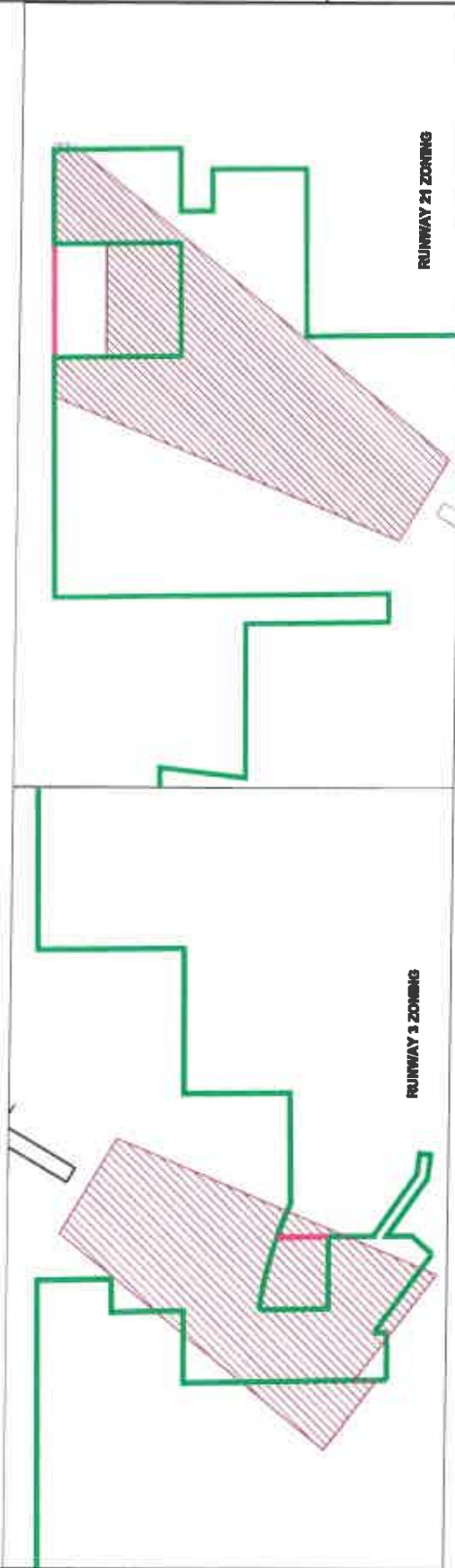
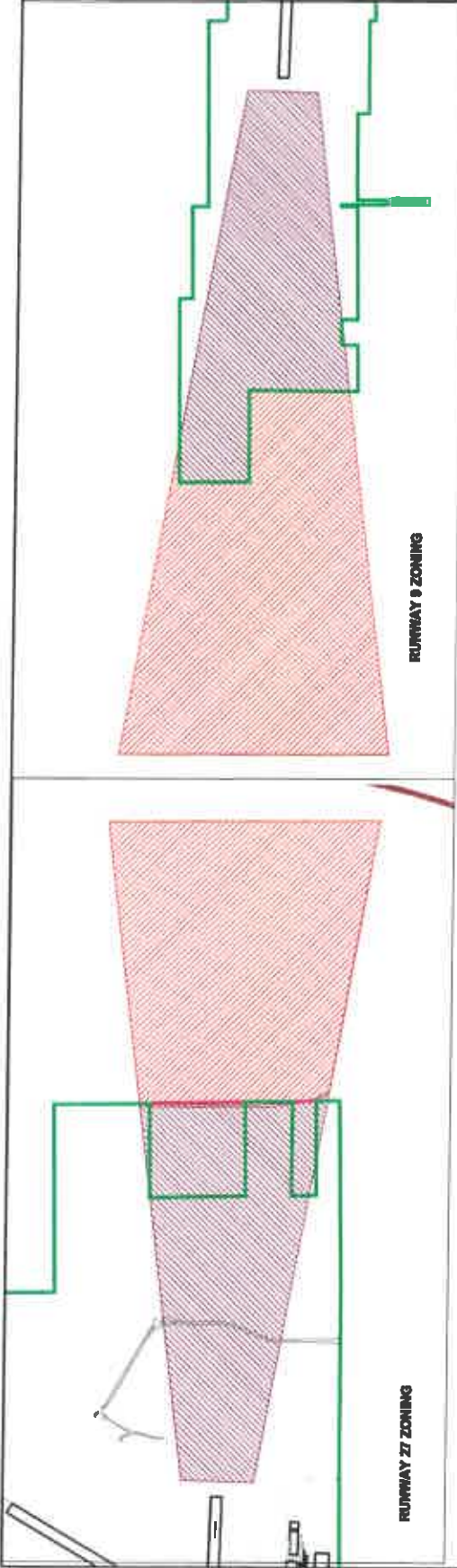
- III. Lots 1, 2 and 3, Anderson's Acres Tracts, according to the plat on file and of record in the office off the St. Louis County Recorder, St. Louis County, Minnesota (395-15-10).**

EXHIBIT C – AIRPORT ZONING MAPS

NO.	DESCRIPTION	DATE
1	PRELIMINARY ZONING	05/11/2011
2	FINAL ZONING	05/11/2011

DATE: 05/11/2011
 SHEET NO.:
**SAFETY ZONES-
 RUNWAY ENDS**

SHEET NUMBER:
2



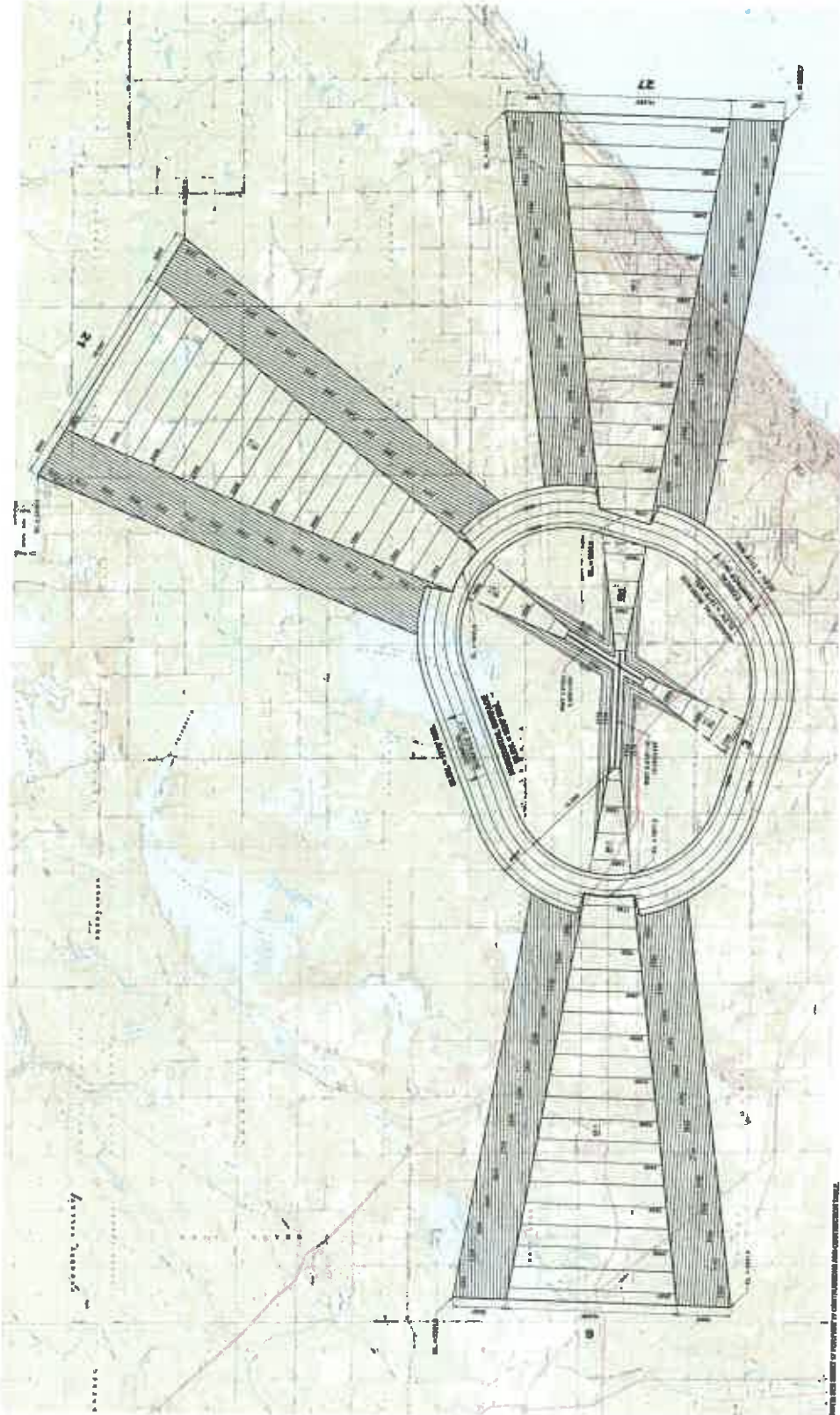
ZONING LEGEND

	AIRPORT PROPERTY BOUNDARY
	FUTURE AIRPORT PROPERTY BOUNDARY
	ZONE 1
	ZONE 2
	ZONE 3

NO.	REVISION	DATE
1	ISSUE FOR BIDDING	08/11/10
2	REVISED PER COMMENTS FROM THE ARCHITECT	08/11/10
3	REVISED PER COMMENTS FROM THE ARCHITECT	08/11/10
4	REVISED PER COMMENTS FROM THE ARCHITECT	08/11/10
5	REVISED PER COMMENTS FROM THE ARCHITECT	08/11/10

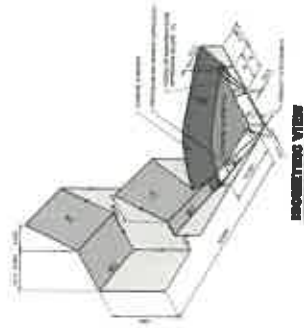
PROJECT NUMBER	08-000000-0000
PROJECT TITLE	Terminal 5
PROJECT LOCATION	1300 West Airport Blvd., Dallas, TX 75246
DATE	08/11/10

PROJECT TITLE	PART 77 AIRFRAME INSTALLATION
PROJECT NUMBER	3

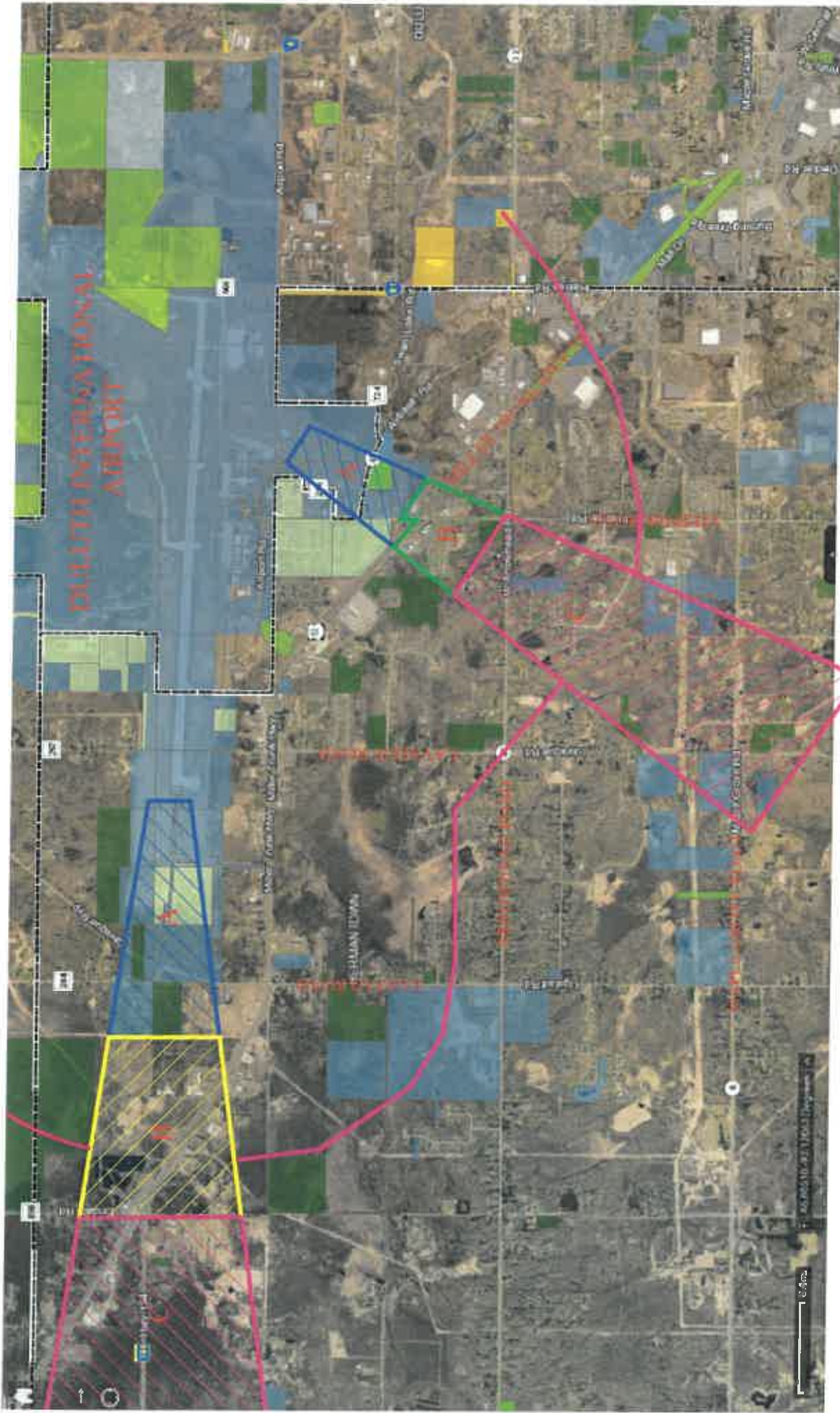


NO.	ITEM	APPROXIMATE QUANTITIES (SQ FT)			
		A	B	C	D
A	APPROXIMATE QUANTITIES OF CONCRETE SLAB	600	2000	1000	1000
B	APPROXIMATE QUANTITIES OF STEEL DECK	600	2000	1000	1000
C	APPROXIMATE QUANTITIES OF MECHANICAL ROOM	600	2000	1000	1000
D	APPROXIMATE QUANTITIES OF APPROACH SLAB	600	2000	1000	1000

APPROXIMATE QUANTITIES OF CONCRETE SLAB, STEEL DECK, MECHANICAL ROOM, AND APPROACH SLAB ARE BASED ON THE ASSUMPTIONS THAT THE AIRFRAME WILL BE INSTALLED ON THE EXISTING CONCRETE SLAB AND APPROACH SLAB.



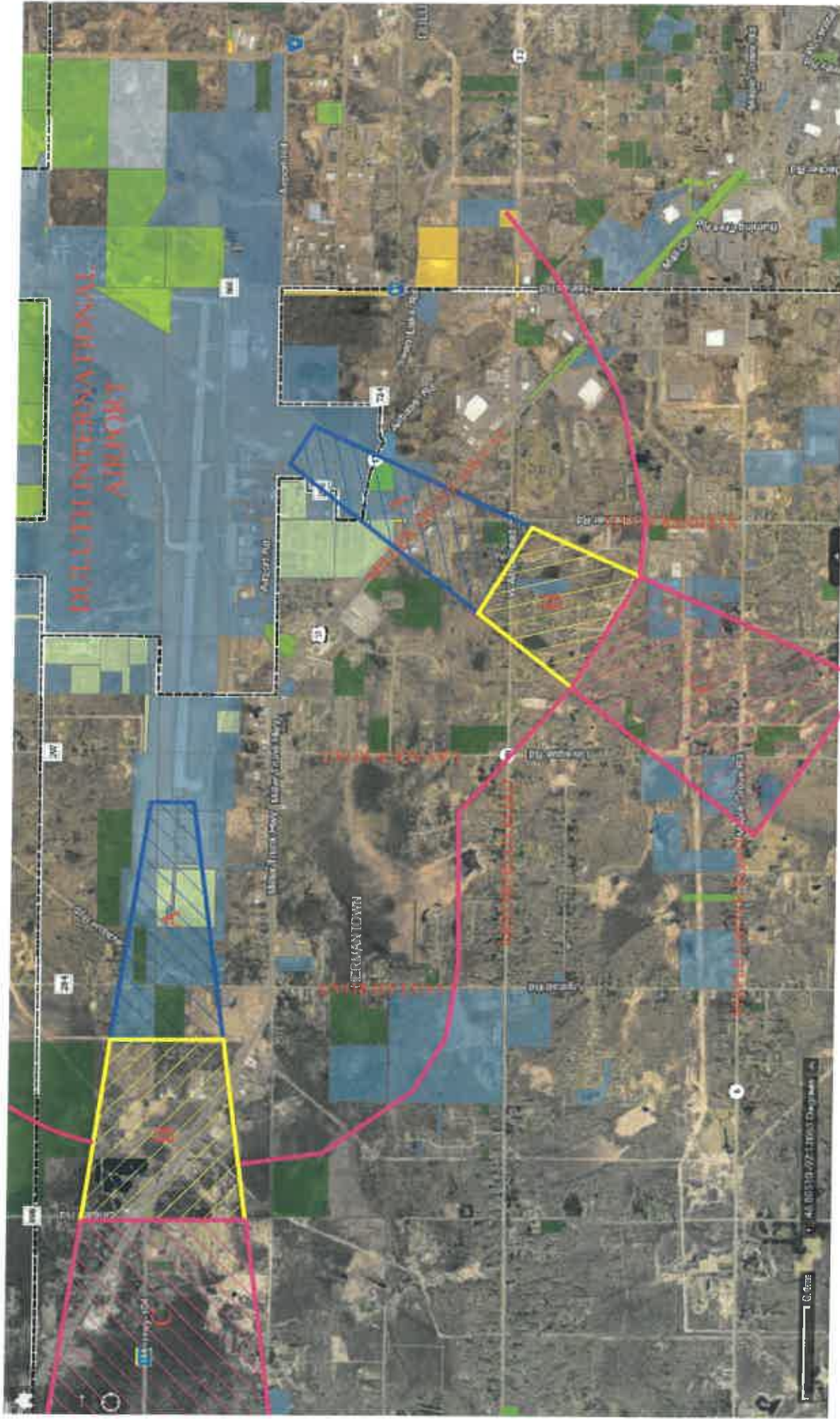
THIS DRAWING IS THE PROPERTY OF RS&H, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF RS&H, INC.



- A SAFETY ZONE
- B SAFETY ZONE
- B WITH C RESTRICTIONS SAFETY ZONE
- C SAFETY ZONE

1988 EXISTING ZONING

EXHIBIT 3



-  A SAFETY ZONE
-  B SAFETY ZONE
-  C SAFETY ZONE

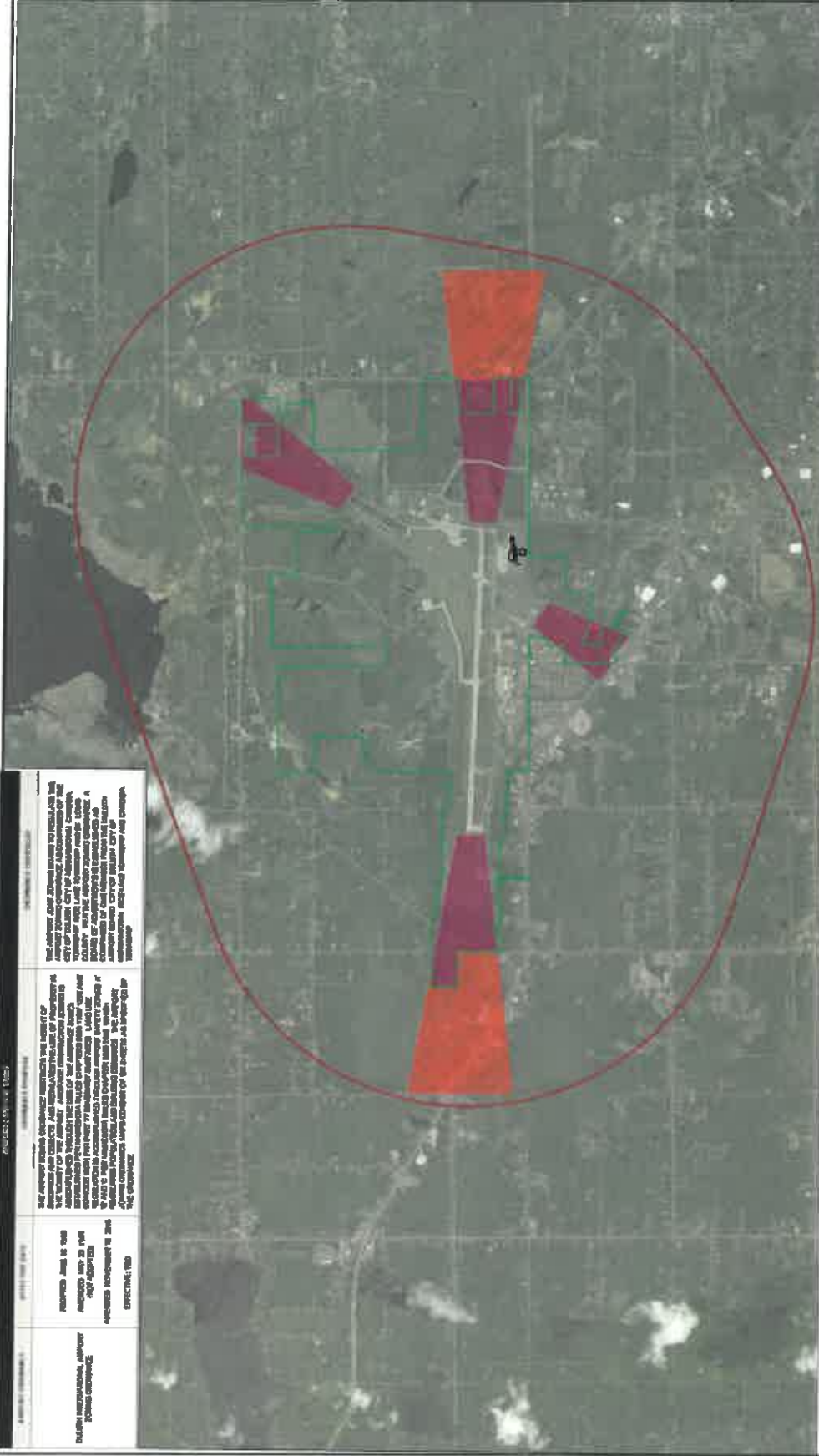
STANDARD MN DOT ZONING

EXHIBIT 4

NO. 1	NO. 2	NO. 3	NO. 4	NO. 5	NO. 6	NO. 7	NO. 8	NO. 9	NO. 10	NO. 11	NO. 12	NO. 13	NO. 14	NO. 15	NO. 16	NO. 17	NO. 18	NO. 19	NO. 20
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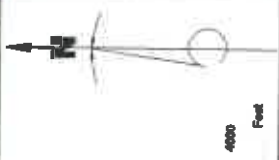
NO. 21	NO. 22	NO. 23	NO. 24	NO. 25	NO. 26	NO. 27	NO. 28	NO. 29	NO. 30	NO. 31	NO. 32	NO. 33	NO. 34	NO. 35	NO. 36	NO. 37	NO. 38	NO. 39	NO. 40
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NO. 41	NO. 42	NO. 43	NO. 44	NO. 45	NO. 46	NO. 47	NO. 48	NO. 49	NO. 50	NO. 51	NO. 52	NO. 53	NO. 54	NO. 55	NO. 56	NO. 57	NO. 58	NO. 59	NO. 60
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ZONING LEGEND

	AIRPORT PROPERTY BOUNDARY
	FUTURE AIRPORT PROPERTY
	ZONE 1
	ZONE 2
	ZONE 3



GENERAL NOTES:

1. THE AIRPORT ZONING ORDINANCE IS THE RESULT OF THE CITY OF ATLANTA'S AIRPORT ZONING ORDINANCE. ALL PROPERTIES WITHIN THE AIRPORT ZONING DISTRICT ARE SUBJECT TO THE AIRPORT ZONING ORDINANCE. THE AIRPORT ZONING ORDINANCE IS A ZONING DISTRICT WITHIN THE CITY OF ATLANTA. THE AIRPORT ZONING ORDINANCE IS A ZONING DISTRICT WITHIN THE CITY OF ATLANTA. THE AIRPORT ZONING ORDINANCE IS A ZONING DISTRICT WITHIN THE CITY OF ATLANTA.

2. THE AIRPORT ZONING ORDINANCE IS THE RESULT OF THE CITY OF ATLANTA'S AIRPORT ZONING ORDINANCE. ALL PROPERTIES WITHIN THE AIRPORT ZONING DISTRICT ARE SUBJECT TO THE AIRPORT ZONING ORDINANCE. THE AIRPORT ZONING ORDINANCE IS A ZONING DISTRICT WITHIN THE CITY OF ATLANTA. THE AIRPORT ZONING ORDINANCE IS A ZONING DISTRICT WITHIN THE CITY OF ATLANTA.



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 10000 Airport Blvd., Suite 100
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 (972) 412-1000
 www.rsandh.com

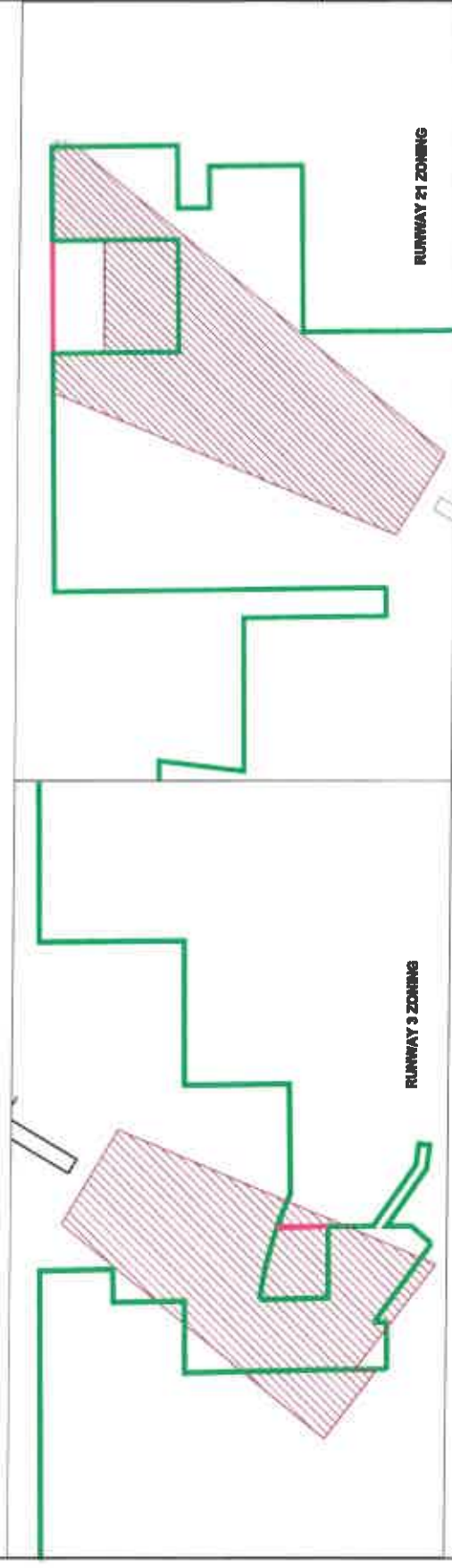
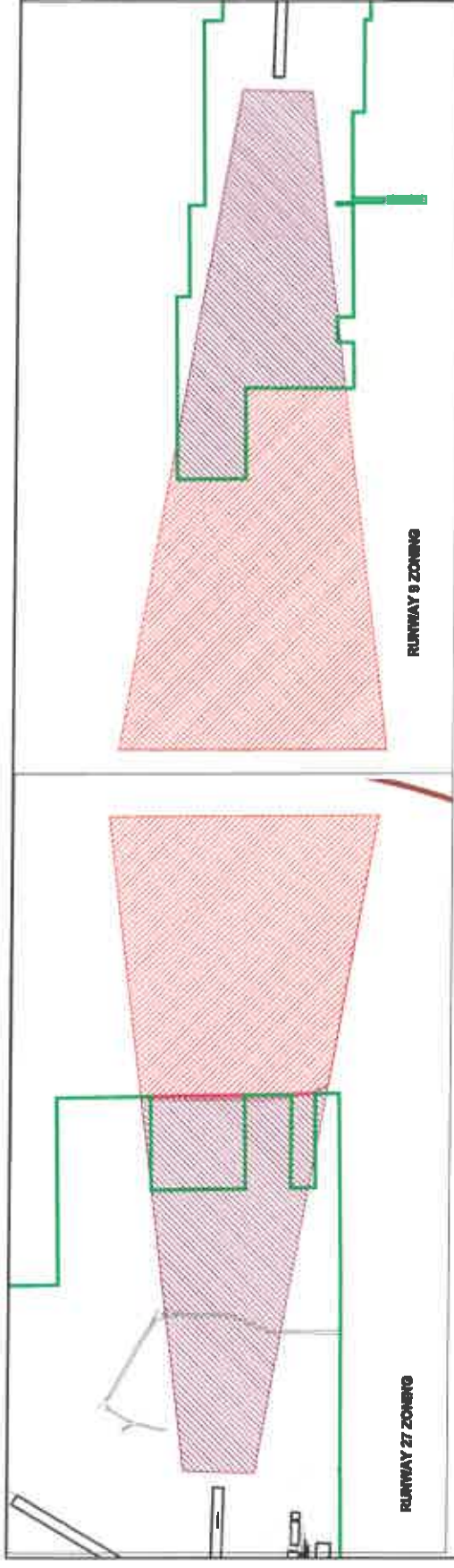


QUALITY CUSTOMER
 ZONING
 COMPLIANCE

DATE: 08/14/2013

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	08/14/2013
2	ISSUED FOR PERMITTING	08/14/2013

PROJECT NO.: 13-0001
 SHEET NO.: 2



ZONING LEGEND	
	AIRPORT PROPERTY BOUNDARY
	FUTURE AIRPORT PROPERTY BOUNDARY
	ZONE 1
	ZONE 2
	ZONE 3

EXHIBIT 6

REVISIONS

NO.	DESCRIPTION	DATE
1	Initial Concept Plan	10/1/2010

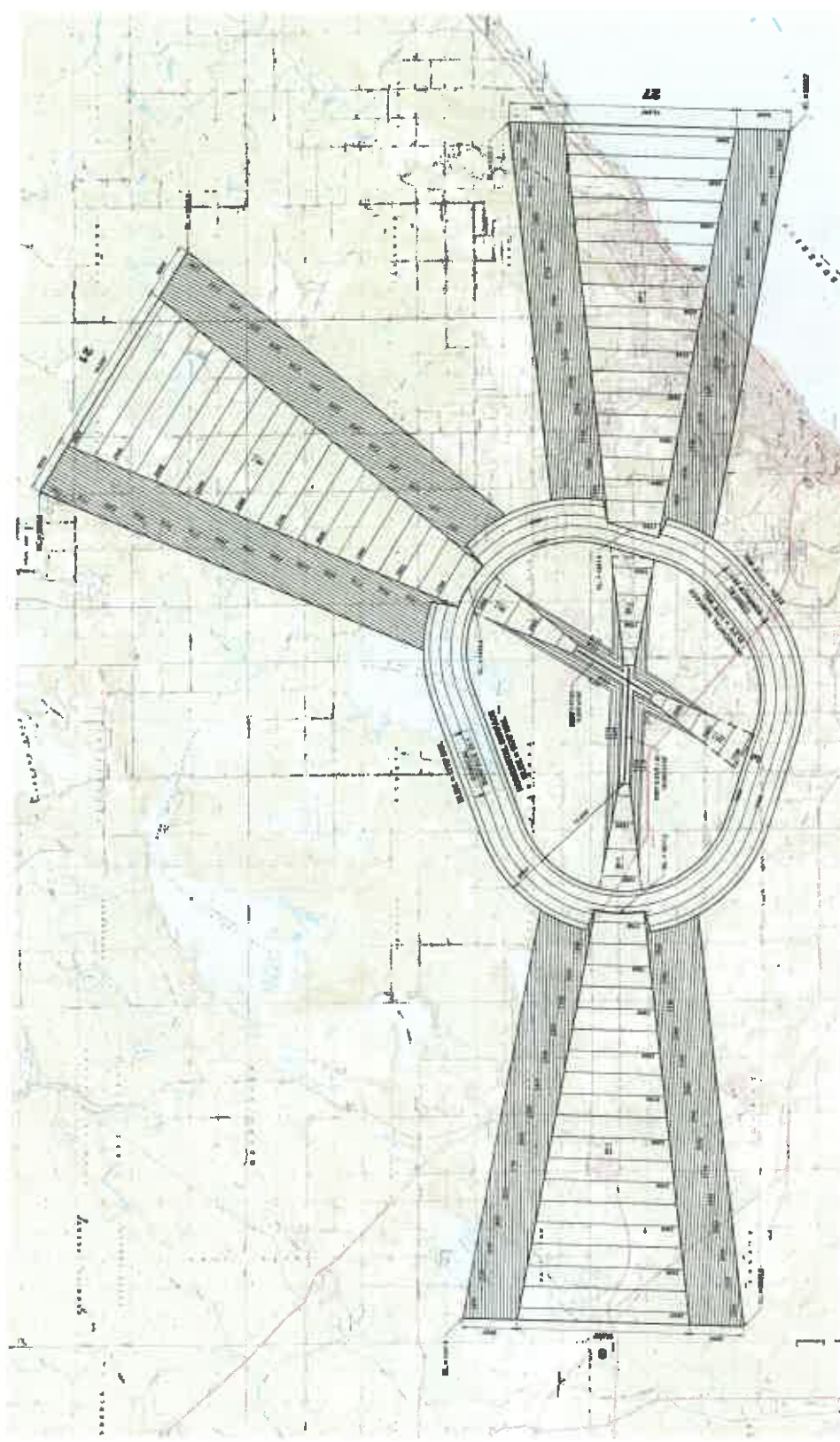
DATE: 10/1/2010

SCALE: 1" = 100'

PROJECT NO.: 10-001

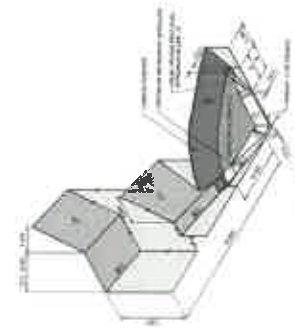
PROJECT TITLE:
PART 77 AIRSPACE CHALLENGE

DATE:
3

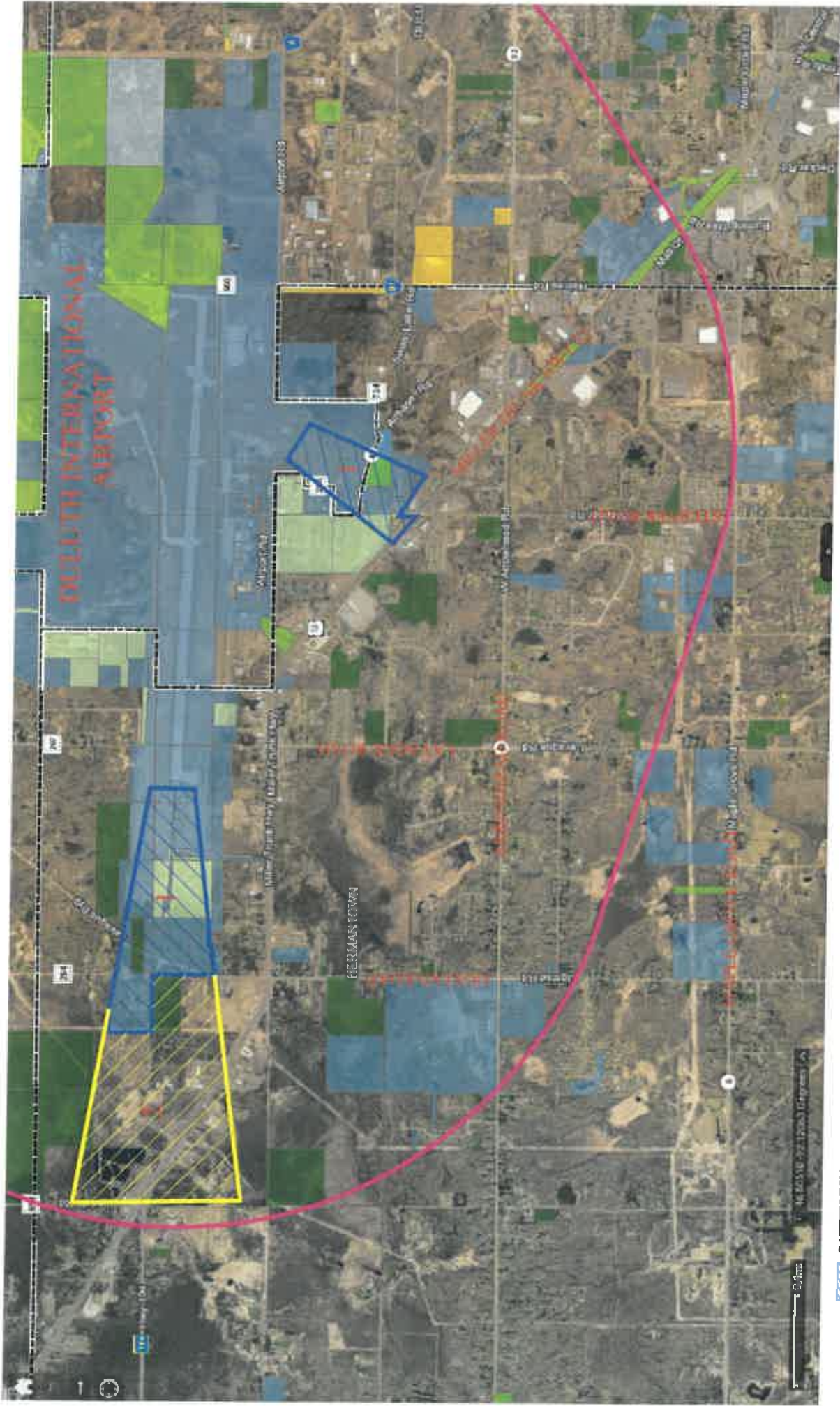




APPROACH CATEGORY

APPROACH CATEGORY	APPROACH CATEGORY	APPROACH CATEGORY	APPROACH CATEGORY	APPROACH CATEGORY	APPROACH CATEGORY
A	B	C	D	E	F
100'	100'	100'	100'	100'	100'



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-  SAFETY ZONE 1
-  SAFETY ZONE 2
-  SAFETY ZONE 3

PROPOSED CUSTOM ZONING

EXHIBIT 8

EXHIBIT 9

~~(b) The commissioner must charge users for a portion of aircraft acquisition, replacement, or leasing costs. All receipts for these services shall be deposited in the air transportation services account in the state airports fund and are appropriated to the commissioner to pay these direct air service operating costs.~~

Subd. 2. Accounts; appropriation. (a) An air transportation services account is established in the state airports fund. The account consists of collections under subdivision 1, paragraph (a), and any other money donated, allotted, transferred, or otherwise provided to the account. Money in the account is annually appropriated to the commissioner to pay air service operating costs.

(b) An aircraft capital account is established in the state airports fund. The account consists of collections under subdivision 1, paragraph (b), proceeds from the sale of aircraft under jurisdiction of the department, and any other money donated, allotted, transferred, or otherwise provided to the account. Money in the account must be used for aircraft acquisition, replacement, or leasing costs. Except as provided by law, the commissioner must not transfer money into or out of the account.

Sec. 93. Minnesota Statutes 2018, section 360.062, is amended to read:

360.062 AIRPORT HAZARD PREVENTION; PROTECTING EXISTING NEIGHBORHOOD LAND USES.

(a) It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thereby impairing the utility of the airport and the public investment therein. It is also found that the social and financial costs of disrupting existing land uses around airports ~~in built-up urban areas, particularly established residential neighborhoods~~, often outweigh the benefits of a reduction in airport hazards that might result from the elimination or removal of those uses.

(b) Accordingly, it is hereby declared: (1) ~~that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question;~~ (2) ~~that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented and that this should be accomplished to the extent legally possible, by exercise of the police power, without compensation;~~ and (3) ~~that the elimination or removal of existing land uses, particularly established residential neighborhoods in built-up urban areas, or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety.~~

(c) It is further declared that the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are essential public purposes services for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 94. Minnesota Statutes 2018, section 360.063, subdivision 1, is amended to read:

Subdivision 1. **Enforcement under police power.** (a) In order to prevent the creation or establishment of airport hazards, every municipality having an airport hazard area within its territorial limits may, unless

a joint airport zoning board is permitted under subdivision 3, adopt, amend from time to time, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

~~(b) For the purpose of promoting~~ In order to promote health, safety, order, convenience, prosperity, and general welfare and ~~for conserving~~ to conserve property values and ~~encouraging~~ encourage the most appropriate use of land, the municipality may regulate ~~the location, size and use of buildings and the density of population in that portion of an airport hazard area under approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an~~ in airport hazard area may regulate by land use zoning for a distance not to exceed one mile from the airport boundary, and by height restriction zoning for a distance not to exceed 1-1/2 miles from the airport boundary areas: (1) land use; (2) height restrictions; ~~(3) the location, size, and use of buildings; and (4) the density of population.~~

(c) The powers granted by this subdivision may be exercised by metropolitan airports commissions in contiguous cities of the first class in and for which they have been created.

(d) In the case of airports owned or operated by the state of Minnesota such powers shall be exercised by the state airport zoning boards or by the commissioner of transportation as authorized herein.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 95. Minnesota Statutes 2018, section 360.063, subdivision 3, is amended to read:

Subd. 3. **Joint airport zoning board.** (a) Where an airport is owned or controlled by a municipality and an airport hazard area appertaining to the airport is located within the territorial limits of another county or municipality, the municipality owning or controlling the airport may request a county or municipality in which an airport hazard area is located:

(1) to adopt and enforce airport zoning regulations for the area in question ~~that conform to standards prescribed by the commissioner pursuant to subdivision 4 under sections 360.0655 and 360.0656;~~ or

(2) to join in creating a joint airport zoning board pursuant to paragraph (b). The owning or controlling municipality shall determine which of these actions it shall request, except as provided in paragraph (e) for the Metropolitan Airports Commission. The request shall be made by certified mail to the governing body of each county and municipality in which an airport hazard area is located.

(b) Where an airport is owned or controlled by a municipality and an airport hazard area appertaining to the airport is located within the territorial limits of another county or municipality, the municipality owning or controlling the airport and the county or other municipality within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subdivision 1 in the municipality within which the area is located. A joint board shall have as members two representatives appointed by the municipality owning or controlling the airport and two from the county or municipality, or in case more than one county or municipality is involved two from each county or municipality, in which the airport hazard is located, and in addition a chair elected

by a majority of the members so appointed. All members shall serve at the pleasure of their respective appointing authority. Notwithstanding any other provision of law to the contrary, if the owning and controlling municipality is a city of the first class it shall appoint four members to the board, and the chair of the board shall be elected from the membership of the board.

(c) If a county or municipality, within 60 days of receiving a request from an owning or controlling municipality pursuant to paragraph (a), fails to adopt, or thereafter fails to enforce, the zoning regulations or fails to join in creating a joint airport zoning board, the owning or controlling municipality, or a joint airport zoning board created without participation by the subdivisions which fail to join the board, may itself adopt, administer, and enforce airport zoning regulations for the airport hazard area in question. In the event of conflict between the regulations and airport zoning regulations adopted by the county or municipality within which the airport hazard area is located, section 360.064, subdivision 2, applies.

(d) "Owning or controlling municipality," as used in this subdivision, includes:

(1) a joint airport operating board created pursuant to section 360.042 that has been granted all the powers of a municipality in zoning matters under the agreement creating the board;

(2) a joint airport operating board created pursuant to section 360.042 that has not been granted zoning powers under the agreement creating the board; provided that the board shall not itself adopt zoning regulations nor shall a joint airport zoning board created at its request adopt zoning regulations unless all municipalities that created the joint operating board join to create the joint zoning board; and

(3) the Metropolitan Airports Commission established and operated pursuant to chapter 473.

(e) The Metropolitan Airports Commission shall request creation of one joint airport zoning board for each airport operated under its authority.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 96. Minnesota Statutes 2018, section 360.064, subdivision 1, is amended to read:

Subdivision 1. **Comprehensive regulations.** In the event that a municipality has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things the height of buildings, any airport zoning regulations applicable to the same area or portion thereof ~~may~~ must be incorporated by reference or incorporated in and made a part of such comprehensive zoning regulations and be administered and enforced in connection therewith.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 97. Minnesota Statutes 2018, section 360.065, subdivision 1, is amended to read:

Subdivision 1. **Notice of proposed zoning regulations, hearing.** (a) No airport zoning regulations shall be adopted, amended, or changed under sections 360.011 to 360.076, except by action of the governing body of the municipality or, county in question, or joint airport zoning board under section 360.0655 or 360.0656, or the boards provided for in section 360.063, subdivisions 3 and 7, or by the commissioner as provided in subdivisions 6 and 8; after public hearings, at which parties in interest and citizens shall have an opportunity to be heard.

(b) A public hearing shall must be held on the proposed airport zoning regulations proposed by a municipality, county, or joint airport zoning board before they are submitted for approval to the commissioner and after that approval but before final adoption by the local zoning authority for approval. If any changes that alter the regulations placed on a parcel of land are made to the proposed airport zoning regulations after the initial public hearing, the municipality, county, or joint airport zoning board must hold a second public hearing before final adoption of the regulation. The commissioner may require a second hearing as determined necessary.

(c) Notice of a hearing required pursuant to this subdivision shall must be published by the local zoning authority municipality, county, or joint airport zoning board at least three times during the period between 15 days and five days before the hearing in an official newspaper and in a second newspaper designated by that authority which has a wide general circulation in the area affected by the proposed regulations and posted on the municipality's, county's, or joint airport zoning board's website. If there is not a second newspaper of wide general circulation in the area that the municipality, county, or joint airport zoning board can designate for the notice, the municipality, county, or joint airport zoning board is only required to publish the notice once in the official newspaper of the jurisdiction. The notice shall not be published in the legal notice section of a newspaper. The notice must specify the time, location, and purpose of the hearing, and must identify any additional location and time the proposed regulations will be available for public inspection. A copy of the published notice must be added to the record of the proceedings.

(d) Notice of a hearing shall also be mailed to the governing body of each political subdivision in which property affected by the regulations is located. Notice shall must be given by mail at least 15 ten days before each hearing to any persons in municipalities that own land proposed to be included in safety zone A or B as provided in the rules of the Department of Transportation and landowners where the location or size of a building, or the density of population, will be regulated. Mailed notice must also be provided at least ten days before each hearing to persons or municipalities that have previously requested such notice from the authority municipality, county, or joint airport zoning board. The notice must specify the time, location, and purpose of the hearing, and must identify any additional location and time the proposed regulations will be made available for public inspection. Mailed notice must also identify the property affected by the regulations. For the purpose of giving providing mailed notice, the authority municipality, county, or joint airport zoning board may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall must be made a part of added to the records of the proceedings. The Failure to give provide mailed notice to individual property owners, or defects a defect in the notice, shall does not invalidate the proceedings; provided if a bona fide attempt to comply with this subdivision has been was made. A notice shall describe the property affected by the proposed regulations and the restrictions to be imposed on the property by the regulations and shall state the place and time at which the proposed regulations are available for public inspection.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This

section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 98. [360.0655] AIRPORT ZONING REGULATIONS BASED ON COMMISSIONER'S STANDARDS: SUBMISSION PROCESS.

Subdivision 1. Submission to commissioner; review. (a) Except as provided in section 360.0656, prior to adopting zoning regulations, the municipality, county, or joint airport zoning board must submit the proposed regulations to the commissioner for the commissioner to determine whether the regulations conform to the standards prescribed by the commissioner. The municipality, county, or joint airport zoning board may elect to complete custom airport zoning under section 360.0656 instead of using the commissioner's standard, but only after providing written notice to the commissioner.

(b) Notwithstanding section 15.99, the commissioner must examine the proposed regulations within 90 days of receipt of the regulations and report to the municipality, county, or joint airport zoning board the commissioner's approval or objections, if any. Failure to respond within 90 days is deemed an approval. The commissioner may request additional information from the municipality, county, or joint airport zoning board within the 90-day review period. If the commissioner requests additional information, the 90-day review period is tolled until the commissioner receives information and deems the information satisfactory.

(c) If the commissioner objects on the grounds that the regulations do not conform to the standards prescribed by the commissioner, the municipality, county, or joint airport zoning board must make amendments necessary to resolve the objections or provide written notice to the commissioner that the municipality, county, or joint airport zoning board will proceed with zoning under section 360.0656.

(d) If the municipality, county, or joint airport zoning board makes revisions to the proposed regulations after its initial public hearing, the municipality, county, or joint airport zoning board must conduct a second public hearing on the revisions and resubmit the revised proposed regulations to the commissioner for review. The commissioner must examine the revised proposed regulations within 90 days of receipt to determine whether the revised proposed regulations conform to the standards prescribed by the commissioner.

(e) If, after a second review period, the commissioner determines that the municipality, county, or joint airport zoning board failed to submit proposed regulations that conform to the commissioner's standards, the commissioner must provide a final written decision to the municipality, county, or joint airport zoning board.

(f) The municipality, county, or joint airport zoning board must not adopt regulations or take other action until the proposed regulations are approved by the commissioner.

(g) The commissioner may approve local zoning ordinances that are more stringent than the commissioner's standards.

(h) If the commissioner approves the proposed regulations, the municipality, county, or joint airport zoning board may adopt the regulations.

(i) A copy of the adopted regulations must be filed with the county recorder in each county that contains a zoned area subject to the regulations.

(j) Substantive rights that existed and had been exercised prior to August 1, 2019, are not affected by the filing of the regulations.

Subd. 2. Protection of existing land uses. (a) In order to ensure minimum disruption of existing land uses, the commissioner's airport zoning standards and local airport zoning ordinances or regulations adopted under this section must distinguish between the creation or establishment of a use and the elimination of an existing use, and must avoid the elimination, removal, or reclassification of existing uses to the extent consistent with reasonable safety standards. The commissioner's standards must include criteria for determining when an existing land use may constitute an airport hazard so severe that public safety considerations outweigh the public interest in preventing disruption to that land use.

(b) Airport zoning regulations that classify as a nonconforming use or require nonconforming use classification with respect to any existing low-density structure or existing isolated low-density building lots must be adopted under sections 360.061 to 360.074.

(c) A local airport zoning authority may classify a land use described in paragraph (b) as an airport hazard if the authority finds that the classification is justified by public safety considerations and is consistent with the commissioner's airport zoning standards. Any land use described in paragraph (b) that is classified as an airport hazard must be acquired, altered, or removed at public expense.

(d) This subdivision must not be construed to affect the classification of any land use under any zoning ordinances or regulations not adopted under sections 360.061 to 360.074.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 99. ~~360.065~~ CUSTOM AIRPORT ZONING STANDARDS.

Subdivision 1. Custom airport zoning standards: factors. (a) Notwithstanding section 360.0655, a municipality, county, or joint airport zoning board must provide notice to the commissioner when the municipality, county, or joint airport zoning board intends to establish and adopt custom airport zoning regulations under this section.

(b) Airport zoning regulations submitted to the commissioner under this subdivision are not subject to the commissioner's zoning regulations under section 360.0655 or Minnesota Rules part 8800.2400.

(c) When developing and adopting custom airport zoning regulations under this section, the municipality, county, or joint airport zoning board must include in the record a detailed analysis that explains how the proposed custom airport zoning regulations addressed the following factors to ensure a reasonable level of safety:

(1) the location of the airport, the surrounding land uses, and the character of neighborhoods in the vicinity of the airport, including:

(i) the location of vulnerable populations, including schools, hospitals, and nursing homes, in the airport hazard area;

(ii) the location of land uses that attract large assemblies of people in the airport hazard area;

(iii) the availability of contiguous open spaces in the airport hazard area;

(iv) the location of wildlife attractants in the airport hazard area;

- (v) airport ownership or control of the federal Runway Protection Zone and the department's Clear Zone;
 - (vi) land uses that create or cause interference with the operation of radio or electronic facilities used by the airport or aircraft;
 - (vii) land uses that make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the airport;
 - (viii) land uses that otherwise inhibit a pilot's ability to land, take off, or maneuver the aircraft;
 - (ix) airspace protection to prevent the creation of air navigation hazards in the airport hazard area; and
 - (x) the social and economic costs of restricting land uses;
- (2) the airport's type of operations and how the operations affect safety surrounding the airport;
- (3) the accident rate at the airport compared to a statistically significant sample, including an analysis of accident distribution based on the rate with a higher accident incidence;
- (4) the planned land uses within an airport hazard area, including any applicable platting, zoning, comprehensive plan, or transportation plan; and
- (5) any other information relevant to safety or the airport.

Subd. 2. Submission to commissioner; review. (a) Except as provided in section 360.0655, prior to adopting zoning regulations, the municipality, county, or joint airport zoning board must submit its proposed regulations and the supporting record to the commissioner for review. The commissioner must determine whether the proposed custom airport zoning regulations and supporting record (1) evaluate the criteria under subdivision 1, and (2) provide a reasonable level of safety.

(b) Notwithstanding section 15.99, the commissioner must examine the proposed regulations within 90 days of receipt of the regulations and report to the municipality, county, or joint airport zoning board the commissioner's approval or objections, if any. Failure to respond within 90 days is deemed an approval. The commissioner may request additional information from the municipality, county, or joint airport zoning board within the 90-day review period.

(c) If the commissioner objects on the grounds that the regulations do not provide a reasonable level of safety, the municipality, county, or joint airport zoning board must review, consider and provide a detailed explanation demonstrating how it evaluated the objections and what action it took or did not take in response to the objections. If the municipality, county, or joint airport zoning board submits amended regulations after its initial public hearing, the municipality, county, or joint airport zoning board must conduct a second public hearing on the revisions and resubmit the revised proposed regulations to the commissioner for review. The commissioner must examine the revised proposed regulations within 90 days of receipt of the regulations. If the commissioner requests additional information, the 90-day review period is tolled until satisfactory information is received by the commissioner. Failure to respond within 90 days is deemed an approval.

(d) If, after the second review period, the commissioner determines that the municipality, county, or joint airport zoning board failed to submit proposed regulations that provide a reasonable level of safety, the commissioner must provide a final written decision to the municipality, county, or joint airport zoning board.

(e) A municipality, county, or joint airport zoning board is prohibited from adopting custom regulations or taking other action until the proposed regulations are approved by the commissioner.

(f) If the commissioner approves the proposed regulations, the municipality, county, or joint airport zoning board may adopt the regulations.

(g) A copy of the adopted regulations must be filed with the county recorder in each county that contains a zoned area subject to the regulations.

(h) Substantive rights that existed and had been exercised prior to August 1, 2019, are not affected by the filing of the regulations.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 100. Minnesota Statutes 2018, section 360.066, subdivision 1, is amended to read:

~~Subdivision 1. Reasonableness. Standards of the commissioner~~ Zoning standards defining airport hazard areas and the categories of uses permitted and airport zoning regulations adopted under sections 360.011 to 360.076, shall be reasonable, and none shall impose a requirement or restriction which is not reasonably necessary to effectuate the purposes of sections 360.011 to 360.076. In determining what minimum airport zoning regulations may be adopted, the commissioner and a local airport zoning authority shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the location of the airport, the nature of the terrain within the airport hazard area, the existing land uses and character of the neighborhood around the airport, the uses to which the property to be zoned are planned and adaptable, and the social and economic costs of restricting land uses versus the benefits derived from a strict application of the standards of the commissioner.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 101. Minnesota Statutes 2018, section 360.067, is amended by adding a subdivision to read:

Subd. 5. Federal no hazard determination. (a) Notwithstanding subdivisions 1 and 2 a municipality, county, or joint airport zoning board may include in its custom airport zoning regulations adopted under section 360.0656 an option to permit construction of a structure, an increase or alteration of the height of a structure, or the growth of an existing tree without a variance from height restrictions if the Federal Aviation Administration has analyzed the proposed construction, alteration, or growth under Code of Federal Regulations title 14 part 77, and has determined the proposed construction, alteration, or growth does not:

(1) pose a hazard to air navigation;

(2) require changes to airport or aircraft operations; or

(3) require any mitigation conditions by the Federal Aviation Administration that cannot be satisfied by the landowner.

(b) A municipality, county, or joint airport zoning board that permits an exception to height restrictions under this subdivision must require the applicant to file the Federal Aviation Administration's no hazard determination with the applicable zoning administrator. The applicant must obtain written approval of the zoning administrator before construction, alteration, or growth may occur. Failure of the administrator to respond within 60 days to a filing under this subdivision is deemed a denial. The Federal Aviation Administration's no hazard determination does not apply to requests for variation from land use, density, or any other requirement unrelated to the height of structures or the growth of trees.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 102. Minnesota Statutes 2018, section 360.071, subdivision 2, is amended to read:

Subd. 2. **Membership.** (a) Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise, the board of adjustment shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing. The length of initial appointments may be staggered.

(b) In the case of a Metropolitan Airports Commission, five members shall be appointed by the commission chair from the area in and for which the commission was created, any of whom may be members of the commission. In the case of an airport owned or operated by the state of Minnesota, the board of commissioners of the county, or counties, in which the airport hazard area is located shall constitute the airport board of adjustment and shall exercise the powers and duties of such board as provided herein.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 103. Minnesota Statutes 2018, section 360.305, subdivision 6, is amended to read:

Subd. 6. **Zoning required.** The commissioner shall not expend money for planning or land acquisition, or for the construction, improvement, or maintenance of airports, or for air navigation facilities for an airport, unless the governmental unit municipality, county, or joint airport zoning board involved has or is establishing a zoning authority for that airport, and the authority has made a good-faith showing that it is in the process of and will complete with due diligence, an airport zoning ordinance in accordance with sections 360.061 to 360.074. The commissioner may provide funds to support airport safety projects that maintain existing infrastructure, regardless of a zoning authority's efforts to complete a zoning regulation. The commissioner shall must make maximum use of zoning and easements to eliminate runway and other potential airport hazards rather than land acquisition in fee.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner

in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 104. Minnesota Statutes 2018, section 394.22, is amended by adding a subdivision to read:

Subd. 1a. Airport safety zone. "Airport safety zone" means an area subject to land use zoning controls adopted under sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 105. Minnesota Statutes 2018, section 394.23, is amended to read:

394.23 COMPREHENSIVE PLAN.

The board has the power and authority to prepare and adopt by ordinance, a comprehensive plan. A comprehensive plan or plans when adopted by ordinance must be the basis for official controls adopted under the provisions of sections 394.21 to 394.37. The commissioner of natural resources must provide the natural heritage data from the county biological survey, if available, to each county for use in the comprehensive plan. When adopting or updating the comprehensive plan, the board must, if the data is available to the county, consider natural heritage data resulting from the county biological survey. In a county that is not a greater than 80 percent area, as defined in section 103G.005, subdivision 10b, the board must consider adopting goals and objectives that will protect open space and the environment. The board must consider the location and dimensions of airport safety zones in any portion of the county, and of any airport improvements, identified in the airport's most recent approved airport layout plan.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 106. Minnesota Statutes 2018, section 394.231, is amended to read:

394.231 COMPREHENSIVE PLANS IN GREATER MINNESOTA; OPEN SPACE.

A county adopting or updating a comprehensive plan in a county outside the metropolitan area as defined by section 473.121, subdivision 2, and that is not a greater than 80 percent area, as defined in section 103G.005, subdivision 10b, shall consider adopting goals and objectives for the preservation of agricultural, forest, wildlife, and open space land, and minimizing development in sensitive shoreland areas. Within three years of updating the comprehensive plan, the county shall consider adopting ordinances as part of the county's official controls that encourage the implementation of the goals and objectives. The county shall consider the following goals and objectives:

(1) minimizing the fragmentation and development of agricultural, forest, wildlife, and open space lands, including consideration of appropriate minimum lot sizes;

- (2) minimizing further development in sensitive shoreland areas;
- (3) minimizing development near wildlife management areas, scientific and natural areas, and nature centers;
- (4) encouraging land uses in airport safety zones that are compatible with the safe operation of the airport and the safety of people in the vicinity of the airport;
- ~~(4)~~ (5) identification of areas of preference for higher density, including consideration of existing and necessary water and wastewater services, infrastructure, other services, and to the extent feasible, encouraging full development of areas previously zoned for nonagricultural uses;
- ~~(5)~~ (6) encouraging development close to places of employment, shopping centers, schools, mass transit, and other public and private service centers;
- ~~(6)~~ (7) identification of areas where other developments are appropriate; and
- ~~(7)~~ (8) other goals and objectives a county may identify.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 107. Minnesota Statutes 2018, section 394.25, subdivision 3, is amended to read:

Subd. 3. **In district zoning, maps.** Within each such district zoning ordinances or maps may also be adopted designating or limiting the location, height, width, bulk, type of foundation, number of stories, size of, and the specific uses for which dwellings, buildings, and structures may be erected or altered; the minimum and maximum size of yards, courts, or other open spaces; setback from existing roads and highways and roads and highways designated on an official map; protective measures necessary to protect the public interest including but not limited to controls relating to appearance, signs, lighting, hours of operation and other aesthetic performance characteristics including but not limited to noise, heat, glare, vibrations and smoke; the area required to provide for off street loading and parking facilities; heights of trees and structures near airports; and to avoid too great concentration or scattering of the population. All such provisions shall be uniform for each class of land or building throughout each district, but the provisions in one district may differ from those in other districts. No provision may prohibit earth sheltered construction as defined in section 216C.06, subdivision 14, or manufactured homes built in conformance with sections 327.31 to 327.35 that comply with all other zoning ordinances promulgated pursuant to this section. Airport safety zones must be included on maps that illustrate boundaries of zoning districts and that are adopted as official controls.

EFFECTIVE DATE. This section is effective August 1, 2019, and applies to maps created or updated under this section on or after that date.

Sec. 108. Minnesota Statutes 2018, section 462.352, is amended by adding a subdivision to read:

Subd. 1a. **Airport safety zone.** "Airport safety zone" has the meaning given in section 394.22, subdivision 1a.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This

section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 109. Minnesota Statutes 2018, section 462.355, subdivision 1, is amended to read:

Subdivision 1. Preparation and review. The planning agency shall prepare the comprehensive municipal plan. In discharging this duty the planning agency shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan. In its planning activities the planning agency shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies. The planning agency shall periodically review the plan and recommend amendments whenever necessary. When preparing or recommending amendments to the comprehensive plan, the planning agency of a municipality located within a county that is not a greater than 80 percent area, as defined in section 103G.005, subdivision 10b, must consider adopting goals and objectives that will protect open space and the environment. When preparing or recommending amendments to the comprehensive plan, the planning agency must consider (1) the location and dimensions of airport safety zones in any portion of the municipality, and (2) any airport improvements identified in the airport's most recent approved airport layout plan.

EFFECTIVE DATE; APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 110. Minnesota Statutes 2018, section 462.357, is amended by adding a subdivision to read:

Subd. 1i. Airport safety zones on zoning maps. Airport safety zones must be included on maps that illustrate boundaries of zoning districts and that are adopted as official controls.

EFFECTIVE DATE. This section is effective August 1, 2019, and applies to maps created or updated under this section on or after that date.

Sec. 111. Minnesota Statutes 2018, section 462.357, subdivision 9, is amended to read:

Subd. 9. Development goals and objectives. In adopting official controls after July 1, 2008, in a municipality outside the metropolitan area, as defined by section 473.121, subdivision 2, the municipality shall consider restricting new residential, commercial, and industrial development so that the new development takes place in areas subject to the following goals and objectives:

(1) minimizing the fragmentation and development of agricultural, forest, wildlife, and open space lands, including consideration of appropriate minimum lot sizes;

(2) minimizing further development in sensitive shoreland areas;

(3) minimizing development near wildlife management areas, scientific and natural areas, and nature centers;

(4) encouraging land uses in airport safety zones that are compatible with the safe operation of the airport and the safety of people in the vicinity of the airport;

~~(4)~~ (5) identification of areas of preference for higher density, including consideration of existing and necessary water and wastewater services, infrastructure, other services, and to the extent feasible, encouraging full development of areas previously zoned for nonagricultural uses;

~~(5)~~ (6) encouraging development close to places of employment, shopping centers, schools, mass transit, and other public and private service centers;

~~(6)~~ (7) identification of areas where other developments are appropriate; and

~~(7)~~ (8) other goals and objectives a municipality may identify.

EFFECTIVE DATE: APPLICATION. This section is effective August 1, 2019, and applies to airport sponsors that make or plan to make changes to runway lengths or configurations on or after that date. This section does not apply to airports that: (1) have airport safety zoning ordinances approved by the commissioner in effect on August 1, 2019; (2) have not made and are not planning to make changes to runway lengths or configurations; and (3) are not required to update airport safety zoning ordinances.

Sec. 112. Minnesota Statutes 2018, section 473.386, subdivision 3, is amended to read:

Subd. 3. **Duties of council.** In implementing the special transportation service, the council ~~shall~~ must:

~~(a)~~ (1) encourage participation in the service by public, private, and private nonprofit providers of special transportation currently receiving capital or operating assistance from a public agency;

~~(b)~~ (2) when feasible and cost-efficient, contract with public, private, and private nonprofit providers that have demonstrated their ability to effectively provide service at a reasonable cost;

~~(c)~~ (3) encourage individuals using special transportation to use the type of service most appropriate to their particular needs;

~~(d)~~ (4) encourage shared rides to the greatest extent practicable;

~~(e)~~ (5) encourage public agencies that provide transportation to eligible individuals as a component of human services and educational programs to coordinate with this service and to allow reimbursement for transportation provided through the service at rates that reflect the public cost of providing that transportation;

~~(f)~~ (6) establish criteria to be used in determining individual eligibility for special transportation services;

~~(g)~~ (7) consult with the Transportation Accessibility Advisory Committee in a timely manner before changes are made in the provision of special transportation services;

~~(h)~~ (8) provide for effective administration and enforcement of council policies and standards; and

~~(i)~~ (9) ensure that, taken as a whole including contracts with public, private, and private nonprofit providers, the geographic coverage area of the special transportation service is continuous within the boundaries of the transit taxing district, as defined as of March 1, 2006, in section 473.446, subdivision 2, and any area added to the transit taxing district under section 473.4461 that received capital improvements financed in part under the United States Department of Transportation Urban Partnership Agreement program.

EFFECTIVE DATE: APPLICATION. This section is effective January 1, 2020, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Neighborhood Notice

DULUTH INTERNATIONAL AIRPORT—TAXIWAY A MILL AND OVERLAY PROJECT

Project Background

The Airport will be completing a pavement rehabilitation project on much of the western half of Taxiway A. Taxiway A is the full parallel taxiway for the primary runway at DLH, and is in need of a more immediate repair while options for a full reconstruction are studied through the airport's ongoing Master Plan process. The mill and overlay process will involve removing two inches of asphalt pavement from the surface of the taxiway, and repaving two inches of new asphalt pavement.



SCHEDULE

The project is scheduled to occur during the last two weeks of July (7/20/2020–7/31/2020).



CONSTRUCTION IMPACT

Commercial airline service will be available throughout construction.

There will be increased construction traffic on Miller Trunk Highway (US Highway 53), Lavaque Rd., and Airport Rd. at varying times throughout construction.



FUNDING

This project is 100% funded by the Federal Aviation Administration (FAA).



CONTACT

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KGM Contractors
(Contractor):
Dan Kliminek
218-780-9280

Note: Please be aware of construction traffic and attentive to children and pets who may be near the construction route. If you have any concerns or witness any safety issue, please notify the point of contacts in the order they are listed.



DULUTH INTERNATIONAL AIRPORT
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