

lc
04.20.2011



OFFICE OF THE CITY CLERK
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3312
(509) 625-6350

April 19, 2011

City Clerk File Nos.:
ORDS C34693 –
C34698

COUNCIL ACTION MEMORANDUM

RE: EMERGENCY ORDINANCES C34693, C34695 and C34696 and FINAL READING ORDINANCES C34694, C34697, AND C34698

During its 6:00 p.m. Legislative Session held Monday, April 4, 2011, the Spokane City Council continued its hearing (from February 21, 2011) on Emergency Ordinances C34693, C34695 and C34696 and Final Reading Ordinances C34694, C34697 and C34698 relating to the pending West Plains Annexation and Airfield Influence Areas. City Planner Louis Meuler provided an overview of the ordinances and presented proposed amendments for Ordinances C34697 and C34696.

Subsequently, the following actions were taken:

Motion by Council Member McLaughlin, seconded by Council Member Rush, to approve the changes to SMC Sections 17C.210.085(B), 17C.210.085(C) and 17C.210.085(E) in Ordinance C34697 as recommended by Mr. Meuler; **carried unanimously (with Council Member Waldref voting in the affirmative via the telephone).**

[As amended, SMC Section 17C.210.085(B) reads: A non-conforming structure in the Clear Zone or ACZ-1 shall not be expanded in height or bulk. When a non-conforming structure in the Clear Zone or ACZ-1, because of damage, destruction, deterioration or other reason, is determined be unfit and needs to be demolished under SMC 17F.070.410, it may not be restored or reconstructed unless in full compliance with the requirements for the zone under this chapter. In cases where a structure in the Clear Zone or ACZ-1 has been damaged or partially destroyed to an extent less than sixty percent of its value, the structure may be rebuilt to the same square footage and occupancy if the owner causes restoration to begin within one year after the damage or the destruction and continues to make substantial progress as required by the building permit.

As amended, SMC Section 17C.210.085(C)(4) reads: When a building containing a Hazardous Use, because of damage, destruction, deterioration or other reason, is an unfit building which needs to be demolished under SMC 17F.070.410, it may not be restored or reconstructed unless in full compliance with the requirements for the zone

under this chapter. In cases where a building containing a Hazardous Use has been damaged or partially destroyed to an extent less than sixty percent of its value, the building may be rebuilt to the same square footage and use if the owner causes restoration to begin within one year after the damage or the destruction and continues to make substantial progress as required by the building permit.

As amended, SMC Section 17C.210.085(E) reads: *Vacant tenant spaces in commercial buildings permitted prior to the adoption of the Airfield Overlay Zones may be leased to and/or occupied by any use permitted by both the overlay zone and underlying zoning without occupancy limitation. Any expansion of existing buildings must comply with the overlay zone and occupancy limitations.*]

Motion by Council Member McLaughlin, seconded by Council Member Rush, to approve the removal of the word "tenant" from (the sentence) "Vacant tenant spaces in commercial buildings permitted prior..." [under SMC Section 17C.210.085(E) in Ordinance C34697], as requested by Mr. Meuler. **Motion carried unanimously (with Council Member Waldref voting in the affirmative via the telephone).**

Mr. Meuler further explained a proposed amendment for Ordinance C34696. He recommended Alternative 2 and removing the words "benefit from and" (from third paragraph, last sentence, under Section 1, "LU 1.15 Airfield Influence Areas") and leaving the rest of that sentence. Subsequently, the following action was taken:

Motion by Council Member Rush, seconded by Council Member Snyder, to amend (Alternative) 2 to the recommended language (thereby deleting the words "benefit from and" and accepting the Alternative 2 language); **carried unanimously (with Council Member Waldref voting in the affirmative via the telephone).**

The opportunity for public testimony followed and further Council and staff comment was held. Subsequently, the following actions were taken:

Upon 6-1 Roll Call Vote (with Council Member Waldref voting "aye" via the telephone and Council Member Apple voting "no"), the Spokane City Council passed Emergency Ordinance C34693 relating to the pending West Plains Annexation; amending the Spokane Comprehensive Plan Land Use Map, Map LU 1, to include updated land use designations for the area within the pending West Plains Annexation; and declaring an emergency.

Upon 6-1 Roll Call Vote (with Council Member Waldref voting "aye" via the telephone and Council Member Apple voting "no"), the Spokane City Council passed Final Reading Ordinance C34694 relating

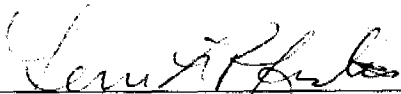
to zoning for the area within the pending West Plains Annexation; authorizing amendments to the City of Spokane Official Zoning Map pursuant to Spokane Municipal Code Section 11.19.220; and setting an effective date.

Upon 6-1 Roll Call Vote (with Council Member Waldref voting “aye” via the telephone and Council Member Apple voting “no”), the Spokane City Council passed Emergency Ordinance C34695 relating to the Airfield Influence Areas; amending the Spokane Comprehensive Plan to include a new map in Chapter 3 entitled “Airfield Influence Areas, Map LU 2;” and declaring an emergency.

Upon 6-1 Roll Call Vote (with Council Member Waldref voting “aye” via the telephone and Council Member Apple voting “no”), the Spokane City Council passed Emergency Ordinance C34696, as amended, relating to Airfield Influence Areas; adopting a new policy to Spokane Comprehensive Plan Chapter 3 Land Use and amending Spokane Comprehensive Plan Policy TR8.4 Airports; and declaring an emergency.

Upon 6-1 Roll Call Vote (with Council Member Waldref voting “aye” via the telephone and Council Member Apple voting “no”), the Spokane City Council passed Final Reading Ordinance C34697, as amended, relating to airfield overlay zones; adopting a new Chapter 17C.180 [Spokane Municipal Code]; and a new Spokane Municipal Code Section 17C.210.085 to Title 17C Land Use Standards of the Spokane Municipal Code.

Upon 6-1 Roll Call Vote (with Council Member Waldref voting “aye” via the telephone and Council Member Apple voting “no”), the Spokane City Council passed Final Reading Ordinance C34698 relating to Airfield Overlay Zoning; authorizing amendments to the City of Spokane Official Zoning Map pursuant to Spokane Municipal Code Section 11.19.220.



Terri L. Pfister, MMC
Spokane City Clerk

02/02/



Agenda Sheet for City Council Meeting of*

02/14/2011

Date Rec'd (Clerk use only) 02/26/2011

Clerk's File # ORD C34696

Status: CLERK REVIEW

Renews #

Submitting Dept*: PLANNING SERVICES

Cross Ref #

Contact Name & Phone*: KATHLEEN WEINAND 6146

Project #

Contact E-Mail*: KWEINAND@SPOKANECITY.ORG

Bid #

Add'l Docs Attached? First Reading Ordinance

Requisition #

Agenda Item Name: Begin with Dept # 0650 AIRFIELD COMPREHENSIVE PLAN POLICY 4 OF 6

Agenda Wording*: 250 character max) Additional attached?

An ordinance relating to Airfield Influence Areas; adopting a new policy to Spokane Comprehensive Plan chapter 3 Land Use and amending Spokane Comprehensive Plan policy TR8.4 Airports.

Summary (Background)*: 500 character max.) Additional attached?

In preparation for the pending West Plains Annexation the Plan Commission has recommended adding a map designating Airfield Influence Areas and supporting policy to the Comprehensive Plan. The map and policy would identify areas impacted by operations at Spokane International Airport, Fairchild Air Force Base and Felts Field and would discourage incompatible development in those areas.

Fiscal Impact Budget Account Additional attached?

Select	\$		#	
Select	\$		#	
Select	\$		#	
Select	\$		#	

Approvals Council Notifications (Date)

Dept Head	WRIGHT, JO ANNE	Study Session	
Division Director	TAYLOR, MIKE	Other	
Finance	LESESNE, MICHELE	Distribution List (Emails preferred) <input type="checkbox"/> Additional?	
Legal	BURNS, BARBARA	lmeuler@spokanecity.org	
For the Mayor	FEIST, MARLENE		

Additional Approvals

Purchasing	
Select Dept 1	
Select Dept 2	
Select Dept 3	

FIRST READING OF THE ABOVE ORDINANCE WAS HELD ON 2/14/11 AND FURTHER ACTION WAS DEFERRED

Lerny Hoff
CITY CLERK

PASSED BY SPOKANE CITY COUNCIL

APRIL 4, 2011

Lerny Hoff
City Clerk

34696

ORDINANCE NO. C34696

An ordinance relating to Airfield Influence Areas; adopting a new policy to Spokane Comprehensive Plan chapter 3 Land Use and amending Spokane Comprehensive Plan policy TR8.4 Airports; and declaring an emergency.

WHEREAS, a portion of the Urban Growth Area / Joint Planning Area located to the west of the limits of the City of Spokane known as the West Plains Annexation Area is proposed to be annexed into the City of Spokane; and

WHEREAS, Spokane International Airport, Fairchild Air Force Base, and areas impacted by these airfields are located within or near the proposed West Plains Annexation area; and

WHEREAS, areas within the current limits of the City of Spokane and areas that might reasonably be expected to be annexed into the City of Spokane are impacted by Felts Field; and

WHEREAS, State law authorizes local jurisdictions to prepare a proposed Comprehensive Land Use Plan to become effective upon the annexation of any area which might reasonably be expected to be annexed; and

WHEREAS, RCW 36.70.547 General Aviation Airports mandates that:

Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport. Such plans and regulations may only be adopted or amended after formal consultation with: Airport owners and managers, private airport operators, general aviation pilots, ports, and the aviation division of the department of transportation. All proposed and adopted plans and regulations shall be filed with the aviation division of the department of transportation within a reasonable time after release for public consideration and comment. Each county, city, and town may obtain technical assistance from the aviation division of the department of transportation to develop plans and regulations consistent with this section;

and

WHEREAS, pursuant to the requirements of RCW 36.70.547 above, the proposal addressed herein has been developed after formal consultation with airport owners and the aviation division of the department of transportation and this proposal has been filed with the aviation division of the department of transportation; and

WHEREAS, the City of Spokane Comprehensive Plan policy - TR 8.4 Airports states, *"Protect the operations of Spokane International Airport and Felts Field with compatible land use regulations and ensure planning is coordinated and consistent with the airports' respective Master Plans."*; and

WHEREAS, The City of Spokane Comprehensive Plan policy - LU 5.1 Built and Natural Environment states, *"Ensure that developments are sensitive to and provide adequate impact mitigation so that they maintain and enhance the quality of the built and natural environment (e.g., air and water quality, noise, traffic congestion, and public utilities and services)."*; and

WHEREAS, The City of Spokane Comprehensive Plan policy - LU 5.2 Environmental Quality Enhancement states, *"Encourage site locations and design features that enhance environmental quality and compatibility with surrounding land uses."*; and

WHEREAS, RCW 36.70A.530 provides that a comprehensive plan, amendment to a plan, a development regulation or amendment to a development regulation, should not allow development in the vicinity of a military installation that is incompatible with the installation's ability to carry out its mission requirements; and

WHEREAS, pursuant to RCW 36.70A.530, each city planning under GMA that has a federal military installation, other than a reserve center, that employs one hundred or more personnel and is operated by the United States department of defense within or adjacent to its border, must notify the commander of the military installation of the city's intent to amend its comprehensive plan or development regulations to address lands adjacent to military installations to ensure those lands are protected from incompatible development. The notice must request from the commander of the military installation a written recommendation and supporting facts relating to the use of land being considered in the adoption of a comprehensive plan or an amendment to a plan. The notice shall provide sixty days for a response from the commander. If the commander does not submit a response to such request within sixty days, the local government may presume that implementation of the proposed plan or amendment will not have any adverse effect on the operation of the installation; and

WHEREAS, pursuant to the requirements of RCW 36.70A.530, the commander of the Fairchild Air Force Base has been notified of this proposal and has been asked to submit a written recommendation and supporting facts relating to the proposal. Fairchild Air Force Base planning staff was also consulted and was given the opportunity to comment; and

WHEREAS, The Plan Commission held workshops on the proposed Comprehensive Plan Land Use and Zoning Map amendments on August 11, 2010, October 13, 2010 and October 27, 2010; and

WHEREAS, The Plan Commission and the City Council discussed the proposal at a joint meeting on September 30, 2010 and again on December 16, 2010; and

WHEREAS, an open house meeting was held on October 12, 2010 in the West Plains area and another open house meeting was held on October 14, 2010 in the Felts Field Area to receive public feedback on the proposal. Postcards were mailed to property owners, property tax payers, business owners and residents in the proposed Airfield Influence Area. Adjacent jurisdictions and other interested agencies and parties were also sent email notifications of the open house meetings; and

WHEREAS, a State Environmental Policy Act (SEPA) Environmental Checklist was completed and a Determination of Non-significance issued for the proposal on October 26th 2010. The determination was circulated to agencies with jurisdiction and parties of interest. Notice of the determination was published in the Spokesman Review on October 27th and November 3rd of 2010; and

WHEREAS, notice of the proposal and of the Plan Commission's November 10, 2010 hearing was published in the Spokesman Review on October 27th and November 3rd. In addition to the newspaper advertisements, Postcards were mailed to property owners, property tax payers, business owners, and residents notifying them of the Plan Commission's November 10, 2010 hearing. Adjacent jurisdictions and other interested agencies and parties were also sent email notifications of the hearing; and

WHEREAS, Spokane Municipal Code (SMC) section 17G.020.010 "Comprehensive Plan and Development Standard Amendment Process" identifies terms and conditions for Comprehensive Plan amendments and Comprehensive Plan emergency amendments; and

WHEREAS, Spokane Municipal Code section 17G.020.010E "Amendment Exceptions" outlines conditions under which the Comprehensive Plan may be amended more often than once a year. Provided that all of the amendment criteria have been met, the following type of amendment may be considered more frequently than once a year: SMC Section 17G.020.010.E1 anticipates amendments to the Comprehensive Plan more often than once per year for annexations, "Also, future annexations will require an amendment to the land use plan map." SMC section 17G.020.010E4 states that:

Whenever an emergency exists. The Plan Commission will review a potential emergency situation, with advice from the city attorney's office, to determine if the situation does, in fact, necessitate an emergency comprehensive plan amendment. Findings must demonstrate a need of neighborhood or community-wide significance, and not a personal emergency on the part of a particular applicant or property owner. Potential emergency situations may involve official, legal or administrative actions, such as those to immediately avoid an imminent danger to public health and safety, prevent imminent danger to public or private property,

prevent an imminent threat of serious environmental degradation or address the absence of adequate and available public facilities or services;

and

WHEREAS, the Plan Commission has determined, with advice from the city attorney's office, that the situation does necessitate an emergency comprehensive plan amendment; and

WHEREAS, the criteria for an emergency amendment require a demonstration of community-wide significance. Preventing incompatible development in the areas surrounding Spokane International Airport, Felts Field and Fairchild Air Force Base is essential to protecting the public health, safety and welfare and public property and justifies the emergency amendments to the Comprehensive Plan; and

WHEREAS, during the Plan Commission deliberations the public comments received during the hearing process were reviewed and changes to the draft products were made when deemed necessary by the Plan Commission; and

WHEREAS, after consideration of the issues and public testimony that is a part of the record and summarized in the City Plan Commission Findings of Fact, Conclusions, and Recommendations adopted on December 8, 2010, the Plan Commission has forwarded their recommended amendments to the zoning map, development standards, and the Comprehensive Plan; and

WHEREAS, post cards were mailed to property owners, property tax payers, business owners, and residents notifying them of the City Council's hearings; and

WHEREAS, notices of the City Council's hearings were posted in the Spokesman Review and the City's official Gazette; and

WHEREAS, the City Council finds that the emergency amendments set forth herein are consistent with the Growth Management Act and the Comprehensive Plan, and are necessary for the immediate protection of the public health, safety, property or peace; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That a new policy is added to the Spokane Comprehensive Plan chapter 3 Land Use to read as follows:

LU 1 Citywide Land Use

LU 1.15 Airfield Influence Areas

Prohibit the siting of land uses that are incompatible with aviation operations in the Airfield Influence Areas designated on Comprehensive Plan maps, and contain residential Comprehensive Plan designations and zoning in the Airfield Influence Areas to their existing locations not allowing for expansion or increases in residential density.

Discussion: Aviation facilities are a functionally and economically vital part of the community. The Federal Aviation Administration's Federal Aviation Regulations (FAR) Part 77, *Objects Affecting Navigable Airspace*, establishes standards for determining obstructions to the airspace necessary for safe aircraft operations. Part 77 regulations define a set of airspace protection surfaces referred to as "imaginary surfaces," which may not be penetrated by any structures or natural features. However, the height of development is not the only characteristic that can cause it to be incompatible with aviation facilities. Areas surrounding these facilities are impacted by noise and safety concerns. RCW 36.70.547 General Aviation Airport mandates; "Every county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport." Air Field operators prepare and maintain Master Plans with the guidance of the Federal Aviation Administration (FAA) or the Department of Defense (DOD). The Master Plans are used to identify Airfield Influence Areas based on their proximity to an airfield, air traffic patterns, relative risk of an accident or current or anticipated levels of aviation generated noise. The Airfield Influence Areas are designated on Comprehensive Plan maps.

Residential uses and uses generally associated with residential uses such as schools and religious institutions are highly sensitive to aviation operation impacts. Other uses that concentrate a large number of people in a small area, endanger critical community infrastructure or create hazards for air traffic are also incompatible. Because of their low building occupancies and similar impacts on adjoining properties industrial uses are generally considered to be compatible with aviation facilities. In order to avoid an increase in potential conflicts between residents and airfield operations no additional land within the Airfield Influence Areas shall be designated for residential uses or other uses that have a high congregation of people. Existing residential designations shall not be changed to a higher density designation. Residential uses are prohibited in Commercial and Industrial designations. Existing Industrial designations are to be preserved and industrial uses that complement aviation facilities encouraged. Airfield Overlay Zones found in the City's development code shall only allow commercial and industrial uses that do not conflict with aircraft operations.

Section 2. That Spokane Comprehensive Plan policy TR8.4 Airports is amended to read as follows:

TR 8.4 Airports Airfields

Protect the operations of Fairchild Air Force Base, Spokane International Airport and Felts Field with compatible land use regulations and ensure planning is coordinated and consistent with the airports' airfields' respective Master Plans.

Passed by the City Council April 4, 2011.

Alexander Joe Shogen, Jr.
Council President

Attest:

Levi H. H. H.
City Clerk

Approved as to form:

James
Assistant City Attorney

Mary B. Verner
Mary B. Verner, Mayor

04/13/2011
Date

APRIL 4, 2011
Effective Date

