

NO. 12-0344

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF AMENDING THE SPOKANE)
COUNTY ZONING CODE RELATED TO A NEW)
CHAPTER FOR A FAIRCHILD AIR FORCE BASE)
OVERLAY ZONE THAT INCLUDES ACCIDENT)
POTENTIAL ZONES, ALLOWED USES IN)
ACCIDENT POTENTIAL ZONES, HEIGHT)
RESTRICTIONS, NOISE IMPACT AREAS/NOISE)
REDUCTION, AND MILITARY INFLUENCE)
AREAS TO IMPLEMENT RECOMMENDATIONS)
OF THE 2010 JLUS STUDY FOR FAIRCHILD AIR)
FORCE BASE)

FINDINGS OF FACT
AND
DECISION

WHEREAS, pursuant to the provisions of Chapter 36.70 RCW, the Board of County Commissioners of Spokane County, Washington, hereinafter referred to as the "Board," has created a Planning Commission, hereinafter referred to as the "Commission"; and

WHEREAS, pursuant to the provisions of Chapters 36.70 and 36.70A RCW, the Commission may make recommendations concerning the adoption of official controls that implement comprehensive plans; and

WHEREAS, pursuant to the provisions of Chapters 36.70 and 36.70A RCW, the Board may adopt a zoning ordinance for the unincorporated areas of Spokane County and may amend the same; and

WHEREAS, pursuant to the provisions of Chapters 36.70 and 36.70A RCW, the Board on May 5, 2004, under Spokane County Resolution No. 04-0461 adopted a new Zoning Code to implement the Goals and Policies of the Comprehensive Plan, said regulation becoming effective June 1, 2004; and

WHEREAS, the Countywide Planning Policies for Spokane County, Policy Topic 1 – Urban Growth Areas, Urban 11, states "Where applicable, comprehensive plans should contain land use policies which provide protection for the continued viability of Fairchild Air Force Base, Spokane International Airport, Felts Field, Deer Park Airport and other publicly owned airports within Spokane County; and

WHEREAS, RCW 36.70A.530 provides that a comprehensive plan, amendment to a plan, a development regulation or amendment to a development regulations, 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 county 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 county'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 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 were also consulted and were given the opportunity to comment; and

WHEREAS, Spokane County Comprehensive Plan Goal T.3g states "Protect airports in Spokane County from encroachment by incompatible land uses"; and

WHEREAS, Spokane County Comprehensive Plan Policy T.3g.7 states "Encourage the protection of airports from adjacent incompatible land uses and/or activities that could adversely impact present and/or future use of the airport as an Essential Public Facility (EPF). Examples of incompatible land uses may include but not be limited to urban density residential, multi-family residential, uses that attract large concentrations of people, wildlife hazards, and special uses such as schools, hospitals and nursing homes, and explosive/hazardous materials"; and

WHEREAS, the Spokane County Comprehensive Plan Goal T.3i states "Recognize major airports and military facilities as key elements of a strong economic base for Spokane County"; and

WHEREAS, Spokane County Comprehensive Plan Policy T.3i.4 states "Coordinate the protection of Spokane International, Felts Field and Deer Park Airports with the City of Spokane and the Towns of Airway Heights and Deer Park by developing consistent development regulations that utilize WSDOT Aviation Airport Land Use Compatibility guidelines and other best management practices for encouraging compatible land uses adjacent to these airports. Coordinate the protection of Fairchild Air Force Base by developing regulations that utilize Department of Defense AICUZ land use criteria for encouraging compatible land uses adjacent to military airports"; and

WHEREAS, undertaken pursuant to the provisions of RCW 36.70A.530, the Fairchild Air Force Base Joint Land Use Study (JLUS) was completed in September of 2009. The JLUS recommends implementation of its findings through a collaborative planning effort among Spokane County, City of Spokane, City of Airway Heights and City of Medical Lake; and

WHEREAS, Spokane County, City of Spokane, City of Airway Heights, and City of Medical Lake agree that the long term protection of Fairchild Air Force Base is essential to Spokane County's economy and security of the United States and as such that actions need to be taken, consistent with the JLUS recommendations, to assure long term protection of the Base; and

WHEREAS, Section 5 of the JLUS Study recommends fifty-seven strategies that should be pursued by local governments to assure that, to the extent possible, development in the vicinity of Fairchild Air Force Base is compatible with current and future base operations; and

WHEREAS, the Office of Economic Adjustment, with the Department of Defense, is providing resources, through a grant contract, to enable Spokane County to undertake, in partnership with other affected local governments and agencies, to implement the JLUS recommendations pertaining to the protection of Fairchild Air Force Base; and

WHEREAS, the JLUS Grant Contract obligates Spokane County to undertake a Joint Land Use Study Implementation Program to be utilized as a guide for local governments to refer to when developing strategies which prevent land use that compromise the ability of Fairchild Air Force Base to carry out its current and future military missions; and

WHEREAS, said JLUS Grant Contract obligates Spokane County to engage in a collaborative relationship with all affected local governments and private organizations for the duration of the Joint Land Use Study Implementation Program; and

WHEREAS, pursuant to the provisions of Chapter 39.34 RCW, two or more public entities may jointly cooperate among each other to perform functions which each may individually perform; and

WHEREAS, pursuant to the provisions of Chapter 34.34 RCW, Spokane County, City of Spokane, City of Airway Heights and City of Medical Lake desire to reduce to writing the collaborative process which they will use to implement JLUS Section 5 recommendations; and

WHEREAS, Section 5 of JLUS sets forth the following collaborative planning principles which should be adhered to in implementing its findings:

- The planning effort includes all jurisdictions in the vicinity of Fairchild Air Force Base having an interest in protecting the current and future operations of the base.
- That common terminology be utilized in the update of land use plans and development codes necessary to implement JLUS Section 5 recommendations.
- That implementation is deliberately and timely accomplished.
- That implementation is transparent with all stakeholders and the public afforded the opportunity to participate.

WHEREAS, an essential element of the collaborative process includes the appointment of a JLUS Implementation Steering Committee consisting of persons representing the collaborating jurisdictions pursuant to Resolution No. 2010-0619; and

WHEREAS, on July 13, 2010 (Resolutions Nos. 10-0619, 2010-0026, 2010-018 and 2010-00459), pursuant to RCW 36.70A.530 and Chapter 36.70 RCW, Spokane County, City of Spokane, City of Airway Heights and City of Medical Lake (hereinafter referred to as "Participating Jurisdictions") adopted the following collaborative process to implement the JLUS Section 5 recommendations:

SECTION NO. 1: PURPOSE

The purpose of this resolution is to reduce to writing the collaborative process which the Participating Jurisdictions will undertake to implement the Section 5 Fairchild Joint Land Use Study (JLUS) recommendations;

**SECTION NO. 2: ESTABLISHMENT OF JLUS IMPLEMENTATION
COORDINATING COMMITTEE**

There is hereby established a JLUS implementation coordinating council hereinafter referred to as the "Coordinating Committee".

The Coordinating Committee shall be comprised of five (5) individuals. One (1) individual shall be appointed by each of the Participating Jurisdictions. The Participating

Jurisdiction's representative shall be an elected official. The fifth (5th) individual shall be appointed by Fairchild Air Force Base.

The Coordinating Committee shall meet at such times and places that are convenient to its members and in such frequency as it determines to be appropriate to meet its responsibilities.

A technical assistance group is also established. It will consist of community development experts from Spokane County, City of Spokane, City of Airway Heights, City of Medical Lake, Spokane Tribe of Indians, Kalispel Tribe of Indians, Fairchild Air Force Base, Spokane International Airport and the Washington Department of Transportation Aviation Division. Each Participating Jurisdiction or entity shall appoint its representatives to the technical assistance group. The technical assistance group will be responsible to advise the Coordinating Committee regarding the effective implementation of the Joint Land Use Study recommendations in its consideration of the purpose and intent of this resolution.

SECTION NO. 3: RESPONSIBILITIES OF COORDINATING COMMITTEE

The Coordinating Committee and technical assistance group shall be responsible for reviewing draft comprehensive plan amendments, development regulations and code amendments prepared by Participating Jurisdictions necessary to implement Section 5 JLUS recommendations in collaboration with Participating Jurisdictions and from time to time providing recommendations on the same to the Participating Jurisdictions planning commissioners and/or legislative bodies.

SECTION NO. 4: PREPARATION OF DRAFT COMPREHENSIVE PLAN AMENDMENTS, DEVELOPMENT REGULATIONS AND CODE AMENDMENTS

Participating Jurisdictions shall develop their own comprehensive plan amendments, development regulations and code amendments necessary to implement Section 5 JLUS recommendations. The following policies shall be used in developing such documents:

- Common terminology be utilized.
- Drafts shall be submitted to the Coordinating Committee and assistance group for their respective review and comment to insure that drafts are coordinated and consistent among the Participating Jurisdictions.
- Drafting and implementation will be deliberate and timely.
- Implementation will be transparent with all stakeholders and the public afforded the opportunity to participate.

Spokane County commits to utilize staff to apply for and administer grants to fund the Participating Jurisdictions' responsibilities under this Agreement.

SECTION NO. 5: DURATION

This Resolution shall terminate at such time all Participating Jurisdictions have completed initiating Section 5 JLUS implementation actions or not later than two years from the last date of signature on this Resolution, whichever occurs first, provided, Participating Jurisdictions may extend the term of the Coordinating Committee by

amendment to this Resolution. Any party may withdraw from this Resolution at any time by providing thirty (30) days advance written notice to all other Participating Jurisdiction members.

WHEREAS, draft policies and regulations to implement the strategies identified in the JLUS Study were developed in collaboration with Spokane County, the City of Spokane, City of Airway Heights, City of Medical Lake and Fairchild Air Force Base consisting of the JLUS Technical Advisory Group; and

WHEREAS, the draft policies and regulations were developed after numerous meetings of the JLUS Technical Advisory Committee and the JLUS Implementation Steering Committee; and

WHEREAS, three open house meetings were held on February 21st, 22nd and 23rd of 2012 at the Waste to Energy Plant, Airway Heights Council Chambers and Medical Lake City Hall. Postcards were mailed to property owners, tax payers, business owners and residents in the proposed MIA 3/4. Adjacent jurisdictions and other interested agencies and parties were also sent notification of the open house meetings; and

WHEREAS, the JLUS Implementation Steering Committee met on March 8, 2012 to review the public comments received at the February open houses, develop its final recommendations on implementation policies and regulations, and to prepare draft Findings of Fact, Conclusions and Recommendations to be forwarded to each implementing jurisdiction's legislative bodies; and

WHEREAS, on February 17, 2012, the Department provided written notice to interested parties including the Washington State Department of Transportation, Aviation Division, Washington State Department of Commerce, City of Spokane, City of Airway Heights, City of Medical Lake, Washington State Pilots Association, Aviation Planning Council, Aircraft Owners and Pilots Association, Spokane International Airport and Fairchild Air Force Base seeking "formal consultation", as provided for under RCW 36.70A.547 and 36.70A.510, regarding the proposed amendments to the Spokane County Zoning Code to implement the JLUS Study for Fairchild Air Force Base, of a meeting/telephone conference on February 27, 2012 at which time the interested parties could provide comment regarding the proposed amendments; and

WHEREAS, on February 27, 2012, the Department held a meeting/teleconference with representatives from the Washington State Department of Transportation Aviation Division, Spokane International Airport, Department of Commerce, and comments from said parties were made a part of the record regarding the proposed amendment; and

WHEREAS, the Board of County Commissioners initiated amendment of the Spokane County Zoning Code to implement the JLUS Study for Fairchild Air Force Base as provided for under 14.402.080(1) of the Spokane County Zoning Code; and

WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt and request for review was sent to the Washington State Department Commerce on February 7, 2012; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA) and WAC 197-11, a non-project Determination of Nonsignificance (DNS) was issued on March 1, 2012 for the proposed amendment and the comment and appeal period ended on March 14, 2012 and no comments or appeal were received; and

WHEREAS, after provision of required public notice and environmental review were met as detailed in the Staff Report, the Commission and Board of County Commissioners held a

joint public workshop and joint public hearing on March 15, 2012 to consider amending the Zoning Code for Spokane County; and

WHEREAS, the Planning Commission considered and concurred with the information contained in the Staff Report, and staff presentation which contained information about compliance with all public notice requirements and State Environmental Policy Act procedures; and

WHEREAS, on March 15, 2012 at the conclusion of the public hearing, the Commission closed the record; and

WHEREAS, on March 22, 2012 the Commission met to deliberate and consider the record to date consisting of all public testimony received at the public hearing on March 15, 2012 and written comments to date following the deliberations. The Commission adopted a recommendation of approval of the proposed amendment and executed Findings of Fact and Recommendation dated March 22, 2012; and

WHEREAS, on March 26, 2012 the Board held a public workshop to consider the Commission's recommendation, made revision to the Commission's recommendation and set April 17, 2012 as the date to consider the proposed revisions at a public hearing; and

WHEREAS, on April 17, 2012, after providing for required public notice, the Board held a public hearing to consider the revised amendment to the Spokane County Zoning Code related to a new chapter for a Fairchild Air Force Base Overlay Zone; and

WHEREAS, on April 17, 2012, at a public hearing the Board received oral and written testimony regarding the proposed amendment; and

WHEREAS, on April 19, 2012, the Board deliberated on the proposed amendment and the Board determined that the best interests of the public would be met by adopting the proposed amendment, as revised by the Board; and

WHEREAS, on April 19, 2012, the Board directed staff to prepare written Findings of Fact and Decision to be executed outside a public meeting; and

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Spokane County, Washington, after considering the Commission's Findings of Fact and Recommendation, and all of the testimony received and files generated by the Commission regarding the proposed amendment, including the Commission's and Board's joint public workshop and joint public hearing on March 15, 2012, makes the following Findings of Fact:

#1

Pursuant to the provision of RCW Chapter 36.70 and the Zoning Code for Spokane County, the Commission has the legal authority to recommend changes to the Zoning Code for Spokane County.

#2

After the required public notice, the Commission and Board held a Joint Public Hearing on March 15, 2012, to consider the proposed amendment.

#3

Spokane County has provided for timely public participation in consideration of the proposed amendment consistent with RCW 36.70A, WAC 365-195-600 and the adopted

Public Participation Program Guidelines (BoCC Resolutions 98-0144 and 98-0788). Public Participation for the proposed amendment included:

- a. Public notice of the hearing as required by Washington State law, including a legal notice published in the *Spokesman Review* newspaper.
- b. Public notice mailed to government agencies, neighborhood organizations, business organizations, and other interested groups and organizations.
- c. Notice of hearing provided to all County Libraries and the City of Spokane Downtown Library.
- d. Notice of intent to adopt sent to the Washington State Department of Commerce on February 7, 2012.
- e. Notice of hearing was posted on Spokane County internet website.

#4

The Board considered the public file for the proposed Zoning Code amendment.

#5

The Board acknowledges and concurs with the SEPA Determination of Nonsignificance issued by the Department on March 1, 2012, with respect to the proposed amendment.

#6

Pursuant to Chapter 36.70A RCW, the proposed amendment is consistent with the Goals and Policies of the Spokane County Comprehensive Plan, as specifically identified in the Commission's Findings of Fact and Recommendation dated March 22, 2012.

#7

Pursuant to Chapter 36.70A.530 RCW, the proposed amendment is consistent with the Goals and Policies of the Spokane County Comprehensive Plan to protect military installations from encroachment by incompatible development and the proposed amendment is consistent with the strategies to implement the Joint Land Use Study (JLUS) for Fairchild Air Force Base.

#8

Adoption of the proposed amendment to the Spokane County Zoning Code regarding a new chapter for a Fairchild Air Force Base Overlay Zone has the effect of replacing and rendering moot the text and map provisions of the Interim Zoning Ordinance adopted by the Board of County Commissioners on November 22, 2011 (Resolution No. 11-1061) that are applicable to Fairchild Air Force Base.

#9

Adoption of the proposed amendment to the Spokane County Zoning Code regarding a new chapter for a Fairchild Air Force Base Overlay Zone has the effect of amending the Official Zoning Map for Spokane County and creating "new" Accident Potential Zones identified as Clear Zone, Accident Potential Zone-1 (APZ-1), Accident Potential Zone-2 (APZ-2), military airspace, and military influence areas (MIA-2, MIA-3/4).

#10

Adoption of the proposed amendment to the Spokane County Zoning Code regarding a new chapter for a Fairchild Air Force Base Overlay Zone will require codification of the proposed amendment to the numbering sequence for each chapter of the Zoning Code, more specifically, to Chapter 14.702 Airport Overlay Zone.

#11

Adoption of the proposed amendment to the Spokane County Zoning Code regarding a new chapter for a Fairchild Air Force Base Overlay Zone has the effect of replacing and rendering moot the provisions of Chapter 14.702, Airport Overlay Zone that are applicable to Fairchild Air Force Base.

BE IT FURTHER RESOLVED that the Board of County Commissioners of Spokane County, Washington, does hereby adopt the revised proposed amendment, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the Clerk of the Board is directed to publish a notice of adoption pursuant to RCW 36.70A.290(2)(b).

BE IT FURTHER RESOLVED, that the Clerk of the Board is directed to send a copy of the revision to the Zoning Code as contained herein to the Washington State Department of Commerce pursuant to RCW 36.70A.106 within 10 days of adoption.

BE IT FURTHER RESOLVED, that the Board makes part of these findings and decision all files in the Spokane County Public Works Department – Department of Building and Planning, Planning Commission, and the Board of County Commissioners along with the tapes, documents and files of all public hearings related to this matter and further adopts all recitals herein as Findings of Fact.

ADOPTED by the Board of County Commissioners of Spokane County, Washington this 1st day of May 2012.




Todd Mielke, Chair


Mark Richard, Vice-Chair


Al French, Commissioner

Attest:


Daniela Erickson
Clerk of the Board 12-0344

ATTACHMENT "A"

Chapter _____ Fairchild Air Force Base Overlay Zone (FOZ)

Sections:

- _____.100 Purpose, Intent, Applicability, Declaration
- _____.200 Accident Potential Zones
- _____.300 Height Restrictions
- _____.400 Military Influence Areas – MIA Development Standards
- _____.500 Noise Impact Area
- _____.600 Bird - Aircraft Strike Hazard
- _____.700 Fairchild AFB Review Required
- _____.800 Avigation Easements
- _____.900 Notification of Military Aircraft Activity
- _____.1000 Nonconforming Uses and Structures
- _____.1100 Appeal of Administration Determinations and Interpretations
- _____.1200 Exemptions
- _____.1300 Definitions

Appendices

- Appendix 1A – Air Force Military Air Space - Illustration
- Appendix 1B – FAA Part 77 Imaginary Surfaces - Illustration

_____.100 Purpose, Intent, Applicability, Declaration

_____.110 Purpose and Intent

It is the purpose of this chapter to discourage incompatible land uses in the vicinity of Fairchild AFB consistent with the recommendations of the Fairchild AFB 2010 Joint Land Use Study, Air Installation Compatible Use Zone Study (AICUZ) and the Goals and Policies of the Comprehensive Plan.

Fairchild Air Force Base (FAFB) has recognized aviation operational characteristics that are unique and necessitate a modified approach to the regulation of vicinity land uses. These characteristics include but are not limited to military aircraft approach and departure operations affecting a more expansive geographic area and more intense aircraft operation noise characteristics resulting from the staging of unique events such as air shows and special military preparedness operations, periodic visits by aircraft from other military air installations.

It is recognized that FAFB current primary missions may, be modified in the future to include more substantial aircraft operations involving more intrusive aircraft. The effects of the regulations below should protect and enable Fairchild AFB's expansion of its military mission which will enhance Spokane County's economy, while enhancing the security of the United States.

The Fairchild Air Force Base Overlay Zone (FOZ) regulations herein are intended to discourage incompatible land uses in the vicinity of Fairchild AFB based on the findings:

- a. It is necessary to discourage new development and activities near Fairchild AFB which could create significant airport hazards of an obstructive nature that adversely effect current and future military operations. Hazards of an obstructive nature, in

effect, reduce the size of the area available for military aircraft operations destroying or impair the utility of Fairchild AFB and the public investment therein.

- b. It is recognized that Fairchild Air Force Base is a key element of a strong economic base for Spokane County and that it is essential that it be protected from incompatible land uses and hazardous encroachments that would cause curtailment of the Base mission or even closure.
- c. pursuant to the Base Realignment and Closure Commission (BRAC) process.
- d. It is recognized that it is essential to protect public and private investments in US Air Force military facilities for which there may be no feasible future replacement.
- e. The regulations herein are necessary to effectively implement the Air Transportation Goals and Policies of the Comprehensive Plan.
- f. These regulations are necessary to effectively implement RCW 36.70A.530 which encourages land uses in the vicinity of Fairchild AFB which are compatible with military installations such as Fairchild Air Force Base.
- g. These overlay regulations are intended to minimize exposure of residential and other noise sensitive land uses from uncontrollable aircraft noise and high numbers of aircraft overflights; to minimize risks to public safety from potential aircraft accidents; to restrict incompatible land uses within designated military influence areas as described in this Section.
- h. The purpose of the regulations herein is to safeguard the public health, safety and welfare by establishing minimum requirements regulating the design and construction standards of certain buildings for human occupancy in the sound sensitive vicinity of Fairchild AFB.

_____.120 Applicability

This Fairchild Overlay Zone (FOZ) regulation apply to the military influence areas described in Section _____.400 and illustrated on the official zoning map The Fairchild Overlay Zone serves as an overlay district that applies additional standards and requirements to properties located within the underlying zoning designations. Where a FOZ requirement overlaps or is in conflict with the underlying zone requirement the most restrictive requirement applies.

_____.130 Declaration - Appropriate Protection

The degree and scope of protection of Fairchild AFB provided by these regulations is considered the minimum necessary to protect current and future Fairchild Air Force Base operations and are reasonable for regulatory purposes and are based on planning and research in coordination with aviation and defense agencies.

_____.200 Accident Potential Zones

_____.201 Accident Potential Zones Established

In order to carry out the purpose and intent of the Fairchild Air Installation Compatible Use Zone (AICUZ) Study and to restrict those land uses which may be hazardous to the operational safety of Fairchild AFB aircraft or threaten the safety of the occupants of the use, the following Accident Potential Zones are hereby established and are illustrated on the official zoning map.

1. Clear Zone: The Clear Zone at each end of the Fairchild AFB runway is 3,000 feet wide (1,500 feet wide on each side of the runway centerline) by 3,000 feet long. Accident potential on or adjacent to the runway or within the clear zone is so high that the necessary land use restrictions would prohibit reasonable economic use of land. Proposed land uses in the Clear Zone shall be in accordance with Section ____ .210, Table 1.

2. Accident Potential Zone (APZ) I: APZ I is 3,000 feet wide (1,500 feet wide on each side of the runway centerline) by 5,000 feet long extending to 8,000 feet from the runway threshold. APZ I begins at the outer boundary of the Clear Zone. Proposed land uses in APZ I shall be in accordance with Section ____ .210 Table 1.

3. Accident Potential Zone (APZ) II: APZ II is 3,000 feet wide (1,500 feet wide on each side of the runway centerline) by 7,000 feet long extending to 15,000 feet from the end of the runway. APZ II commences at the outer boundary of APZ I. Proposed uses in APZ II shall be in accordance with Section ____ .210, Table 1.

.210 APZ Permitted and Prohibited Uses

Land uses are permitted or prohibited in the Clear Zone, APZ-1 and APZ-II Zones are as specified in Table 1 below. If Table 1 specifies a use is not allowed, the use shall be deemed prohibited for the purposes of this Chapter. If a permitted use conflicts with the requirements of the underlying zone the more restrictive requirements shall apply.

Table 1 - Accident Potential Zones (APZs) Allowed Uses (Refer to official zoning map for an illustration of the APZs)				
SLUCM No.	Land Use	CZ	APZ I	APZ II
10	Residential			
11.11	Single units; detached	N	N	Y ¹
11.12	Single units; semidetached	N	N	N
11.13	Single units; attached row	N	N	N
11.21	Two units; side-by-side	N	N	N
11.22	Two units; one above the other	N	N	N
11.31	Apartments; walk-up	N	N	N
11.32	Apartments; elevator	N	N	N
12	Group quarters	N	N	N
13	Residential hotels	N	N	N
14	Mobile home parks or courts	N	N	N
15	Transient lodgings	N	N	N
16	Other residential	N	N	N ¹
20	Manufacturing			
21	Food and kindred products; manufacturing	N	N ²	Y
22	Textile mill products;	N	N ²	Y

	manufacturing			
23	Apparel and other finished products made from fabrics, leather, and similar materials; manufacturing	N	N	N ²
24	Lumber and wood products (except furniture); manufacturing	N	Y ²	Y
25	Furniture and fixtures; manufacturing	N	Y ²	Y
26	Paper and allied products; manufacturing	N	Y ²	Y
27	Printing, publishing, and allied industries	N	Y ²	Y
28	Chemicals and allied products; manufacturing	N	N	N ²
29	Petroleum refining and related industries	N	N	N
31	Rubber and misc. plastic products; manufacturing	N	N ²	N ²
32	Stone, clay, and glass products manufacturing	N	N ²	Y
33	Primary metal industries	N	N ²	Y
34	Fabricated metal products; manufacturing	N	N ²	Y
35	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks; manufacturing	N	N	N ²
SLUCM No.	Land Use	CZ	APZ I	APZ II
39	Miscellaneous manufacturing	N	Y2	Y2
40	Transportation, Communications and Utilities			
41	Railroad, rapid rail	N ³	Y4	Y

	transit, and street railroad transportation			
42	Motor vehicle transportation	N ³	Y	Y
43	Aircraft transportation	N ³	Y ⁴	Y
44	Marine craft transportation	N ³	Y ⁴	Y
45	Highway and street right-of-way	N ³	Y	Y
46	Automobile parking	N ³	Y ⁴	Y
47	Communications	N ³	Y ⁴	Y
48	Utilities	N ³	Y ⁴	Y
49	Other transportation communications and utilities	N ³	Y ⁴	Y
50	Trade			
51	Wholesale trade	N	Y ²	Y
52	Retail trade: building materials, hardware, and farm equipment	N	Y ²	Y
53	Retail trade: general merchandise	N	N ²	Y ²
54	Retail trade: food	N	N ²	Y ²
55	Retail trade: automotive, marine craft, aircraft, and accessories	N	Y ²	Y ²
56	Retail trade: apparel and accessories	N	N ²	Y ²
57	Retail trade: furniture, home furnishings, and equipment	N	N ²	Y ²
58	Retail trade: eating and drinking establishments	N	N	N ²
59	Other retail trade	N	N ²	Y ²
60	Services			
61	Finance, insurance, and real estate services	N	N	Y ⁶
62	Personal services	N	N	Y ⁶
62.4	Cemeteries	N	Y ⁷	Y ⁷
63	Business services	N	Y ⁶	Y ⁶
64	Repair services	N	Y ²	Y
65	Professional services	N	N	Y ⁶
65.1	Hospitals, nursing	N	N	N

	homes			
65.1	Other medical facility	N	N	N
66	Contract construction services	N	Y ⁶	Y
67	Governmental services	N	N	Y ⁶
68	Educational services	N	N	N
69	Miscellaneous services	N	N ²	Y ²
70	Cultural, Entertainment, and Recreational			
71	Cultural activities (including churches)	N	N	N ²
SLUCM No.	Land Use	CZ	APZ I	APZ II
71.2	Nature exhibits	N	Y ²	Y
72	Public assembly	N	N	N
72.1	Auditoriums, concert halls	N	N	N
72.11	Outdoor music shell, amphitheaters	N	N	N
72.2	Outdoor sports arenas, spectator sports	N	N	N
73	Amusements	N	N	Y ⁸
74	Recreational activities (including golf courses, riding stables, water recreation)	N	Y ⁸	Y ⁸
75	Resorts and group camps	N	N	N
76	Parks	N	Y ⁸	Y ⁸
79	Other cultural, entertainment, and recreation	N	Y ⁸	Y ⁸
80	Resources Production and Extraction			
81	Agriculture (except livestock)	Y	Y	Y
81.5 to 81.7	Livestock farming and animal breeding	N	Y	Y
82	Agricultural-related activities	N	Y ⁵	Y
83	Forestry activities and related services	N ⁵	Y	Y
84	Fishing activities and related services	N ⁵	Y ⁵	Y
85	Mining activities and related services	N	Y ⁵	Y

89	Other resources production and extraction	N	Y ⁵	Y
91	Fairchild AFB Support Improvements ¹¹	Y	Y	Y

Key:

SLUCM = Standard Land Use Coding Manual, USURA (1965).

Y = Yes – Land uses and related structures are permitted.

N = No – Land use and related structures are not compatible and are prohibited.

Yx = Yes with restrictions – Land use and related structures generally compatible; see below notes indicated by the superscript.

Nx = No, subject to exceptions – See below notes indicated by the superscript.

Notes:

1. Maximum allowed density of 1 dwelling units per acre when permitted by the underlying zoning.
2. Within each land use category, uses exist where further deliberating by local authorities might be needed due to the variation of densities in people and structures. Shopping malls and shopping centers are considered incompatible uses in any accident potential zone (CZ, APZ I, or APZ II).
3. The placement of structures, buildings, or above ground utility lines in the CZ is prohibited.
4. Passenger terminals and major aboveground transmission lines in APZ I. are prohibited.
5. The Director shall make a determination of appropriateness based on the labor intensity, structural coverage, hazardous materials characteristics and air pollution impacts of the proposed use.
6. Low-intensity office uses only. Meeting places, auditoriums, and similar structures are not recommended.
7. Excludes chapels.
8. Public/club pools, splash pads, skate parks, ice skating rinks, amusement park rides, ball fields for team sports, pavilions, club houses, lodges and other gathering facilities are prohibited. Additionally, facilities shall not result in occupancy densities exceeding 75 persons per acre*.
9. Above ground improvements installed and maintained by Fairchild AFB are permitted. In the Clear Zone, APZ I and APZ II.

*Should an ownership include a multiple of acres no single acre of the ownership shall be allowed to exceed the stated density limit. For example, each acre within an undivided ten acre ownership shall not be allowed to exceed the density limit.

NOTE: Refer to official zoning map for an illustration of the Fairchild AFB APZs

220 Review of Permitted Uses locating in the Clear Zone, APZ I and APZ II – Application of Reasonable Conditions

The Department shall review all requests for approval of allowed uses which are submitted to the Department pursuant to County development regulations. The Director shall review the proposal for consistency with applicable requirements of the Fairchild Overlay Zone (FOZ). The Director may require a detailed site development plan to include but not be limited to a written description and illustration of site development, specific placement of all site

improvements and other site alterations concurrent with development. The information shall include sufficient detail to enable the Department to determine that the proposal is compatible with current and future operations of Fairchild AFB and consistent with all requirements of the FOZ.

After consulting with Fairchild AFB the Director may attach reasonable conditions to the approval of permitted uses as necessary to assure consistency with this regulation and compatibility with Fairchild Air Force Base. Conditions may address but not be limited to the following:

- establishment of buffers
- site specific building envelopes and placement
- vegetation installation
- location and installation of utilities
- post development management and operations
- structural materials and design
- structure height, location and orientation
- light and glare suppression
- birdlife suppression
- abatement of sight obscuring emissions
- other reasonable conditions or safeguards that will uphold the purpose and intent of this regulation to protect Fairchild Air Force Base consistent with Comprehensive Plan Goals and Policies

.221 General Use Restrictions – Clear Zone, APZ I and II

1. No use shall be developed or installed in the Clear Zone, APZ-I or APZ-II that would cause any one of the following circumstances.
 - a. The use creates or causes interference with the operations of radio communications or electronic facilities at Fairchild Air Force Base or between Fairchild Air Force Base and airborne aircraft.
 - b. The use makes it difficult for pilots to distinguish between airport lights and other lights.
 - c. The use results in glare which impairs pilot vision.
 - d. The use impairs pilot visibility in the vicinity of the Fairchild AFB.
 - e. The use endangers the landing, taking off, or maneuvering of aircraft.
 - f. The use creates a bird attractant that, in the opinion of the Fairchild AFB, could interfere with aircraft operations.
 - g. The use would create a fire accelerant or secondary explosion resulting from an aircraft crash in an accident potential zone.
 - h. Permitted uses shall not create large areas of standing water which would be airborne wildlife attractants.
 - i. Any use which endangers incoming or outgoing aircraft or the maneuvering of aircraft in the vicinity of Fairchild Air Force Base.
2. New buildings and structures located on vacant parcels created before the effective date of these regulations shall be situated on side of the parcel farthest from the FAFB runway centerline, provided that the placement is consistent with the setback requirements of the underlying zone.
3. Stormwater facilities shall be designed in compliance with the Washington State Department of Transportation Aviation "Stormwater Design Manual Best Management Practices."

4. Overhead utilities are prohibited in the Clear, APZ I and II Zones. Utilities shall be sited underground to the greatest extent possible.

____.222 Fairchild AFB Notification

The Director shall request comment from Fairchild Air Force Base consistent with the requirements of Section _____.701 relating to development proposed to be located in MIA 3/4.

____.230 Clear Zone Special Considerations

This section applies to all uses allowed in the Clear Zone listed in Table 1 as follows: No above ground structures or utilities are permitted. On undeveloped lots existing prior to the adoption of this chapter allowed structures shall be designed to be the minimum necessary to provide for a reasonable and economically viable use of the property necessary and that would not threaten public health, safety or welfare on or off the property or compromise in any manner the military mission of Fairchild Air Force Base.

____.240 Use Determinations

It is recognized that all possible uses and variations of uses cannot be reasonably listed in Table 1 in Section _____.210. Any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in Table 1. If the proposed use resembles uses specified in Table 1 in terms of intensity and character, it shall be considered as a permitted/nonpermitted use within the Clear Zone or Accident Potential Zones. If such use is deemed to be permitted use such use shall be subject to the development standards applicable to the use it most nearly resembles. If a use does not resemble other identified allowable uses within a matrix, it may be permitted as determined by an amendment to this chapter.

____.250 Conflicting Regulations

Should the regulations in Section _____.200 conflict with any regulations in this Chapter the more restrictive regulation shall apply.

____.300 Height Restrictions

____.301 Military Airspace Established

In order to carry out the purpose and intent of the Fairchild Air Installation Compatible Use Zone Study and to restrict those uses which may be hazardous to the operational safety of military aircraft the military airspace described in Department of Defense Unified Facilities Criteria (UFC) 3-260-01 (hereinafter referred to as UFC 3-260-01. The UFC 3-260-01 military airspace and any revisions made thereto are adopted by reference and made an official part of this chapter.

____.310 Height Restrictions

Structures may not be constructed, altered or maintained which would penetrate military airspace or vegetation allowed to grow into or project into military airspace as described in UFC 3-260-01 and illustrated in Appendix 1A and 1B. The Federal Aviation Administration shall review all development requests for consistency with this requirement. The Planning Director may require a development applicant to provide such technical documents and illustrations as necessary to demonstrate that the proposed development will not penetrate an imaginary surface. Where an area or improvement is subject to more than one military airspace height limitation specified in this chapter, the more restrictive limitation shall prevail.

Upon submission of a an application for development approval, the filing of FAA Form 7460-1 or any other appropriate federal forms necessary to comply with Federal military airspace

protection requirements may be required by the Department based on overall height, location, and/or nature of the proposed improvement. Federal military airspace requirements are **included in Department of Defense publication UFC-3-260-01 and in FAA Codified Federal Regulation (CFR) Part 77.**

Proposed developments that have the potential to penetrate military airspace as described in UFC 3-260-01 will be reviewed by Fairchild Air Force Base. The Director shall consider FAFB comments and recommendations prior to a final decision on the proposed development.

____.320 Administrative Height Exceptions

The Planning Director may, as part of a development permit application process, administratively grant height exceptions after a review of the proposal and issuance of written findings that the proposed development meets the following criteria:

1. The applicant has complied with the Federal Aviation Administration Form 7460-1 review process (Notice of Proposed Construction or Alteration) and provided documentation from FAA that this review process is complete and that FAA has no objections to the proposed development.
2. The requirements of ____700 have been satisfied.

Further, the development shall meet at least one of the following criteria:

1. The improvement would be shielded by an adjacent or nearby existing permanent structure or natural terrain feature of equal or greater height compared to the proposed structure.
2. The improvement is an air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Federal Aviation Administration.
3. The proposal is a military service and support improvement, with a fixed location and height which are necessary and incidental to base operations as certified in writing by Fairchild Air Force Base.

The Director may require an applicant to provide such technical documentation and illustrations necessary to demonstrate that the proposed development will not threaten or reduce military aircraft safety.

____.400 Military Influence Areas

____.405 Military Influence Areas (MIA) Established

Fairchild Air Force Base Military Influence Areas (MIA) are hereby established as integral components of the Fairchild Overlay Zone (FOZ). Land within the MIAs is subject to the regulations of the underlying zones as well as the regulations specified in this Section. The MIAs are illustrated on the official zoning map and are described as follows:

Military Influence Area 1 Relating to Regional and Non-Geographic Specific Activities.

MIA 1 encompasses the geographical area within Spokane County's boundaries to include all the County's cities. The Fairchild AFB Joint Land Use Study (JLUS) for this MIA identified two

types of strategies for MIA 1. The first type of strategy applies to Spokane County as a whole and can vary in geographic scope depending on the specific issues. The second type of strategy does not apply to a specific geographic area because they are processes and procedures related to local governments. An example of this is a JLUS strategy which suggests the creation of a JLUS Coordinating Committee that will oversee implementation of JLUS strategies intended to protect Fairchild AFB. Other strategy examples include but are not limited to promoting intergovernmental and interagency coordination and collaboration regarding planning and development activities within MIA 1 potentially affecting Fairchild AFB; incorporating military housing needs in comprehensive plans; and implementing evaluation processes that protect military airspace and prevent conflicts with military electronic communications systems.

Military Influence Area 2 – Coordination and Collaboration Area

This MIA extends approximately 26,400 feet (approximately 5 miles) from the Fairchild AFB runway. This MIA defines an area where Fairchild AFB aircraft over flights occur and where aviation easements are necessary. More extensive interagency coordination is required regarding evaluation of land use policies and development proposals potentially affecting FAFB operations. Additionally, prevention of bird strikes on aircraft and other wildlife intrusions affecting Fairchild AFB operations are discouraged, Fairchild AFB and FAA review of project proposals are required to ensure that structures do not penetrate Department of Defense military airspace and prevent interference with military electronic communications. MIA 2 is also intended to promote an enhanced level of notification to the public regarding military aircraft over flight and their associated impacts.

Military Impact Area 3/4 – Land Use Compatibility Area/Sound Impact Area

MIA 3/4 is the primary land use impact area whereby land uses and development densities have the potential to adversely impact Fairchild AFB operations and as illustrated on the official zoning map. This MIA applies land use restrictions and use densities to protect the health, safety and welfare of the general public and assure that uses will not conflict with Fairchild AFB operations and prevent concentrations of people in harms way. The shape and scope of MIA 3/4 is based on an evaluation of military aircraft over flight patterns and in consideration of proximity to the military aircraft 65 Ldn sound impact contour.

The 65 Ldn sound contour is illustrated in the 2010 Joint Land Use Study within Appendix, a Noise Technical Report for the Fairchild Air Force Base Joint Land Use Study, Figure 4, Fairchild Scenario 3 involving deployment of current and future aircraft.

MIA 3/4 also serves as a noise reduction area. The purpose for designating MIA 3/4 as a noise reduction area is to require use of sound reducing design and materials in the new residential structures.

410 MIA 3/4 Regulations Based on Washington State Airport Compatibility Guidelines

The land use regulations applicable to MIA 3/4 specified in this section are based on the Washington State Department of Transportation Division of Aviation Airports and Compatible Use Guidelines. These regulations are further based on a review of military flight operations in the vicinity of Fairchild AFB. Maps of the military flight tracks are maintained in the Department of Building and Planning.

420 Compatible Uses and Densities – MIA 3/4

This Section specifies uses and densities allowed in Military Influence Area 3/4 as illustrated on the official zoning map. If these requirements conflict with the requirements applicable to

the Clear and Accident Potential Zones specified in Section ____200 the more restrictive requirements apply to the Clear Zone and Accident Potential Zones. The use and activity categories and associated density maximums and limitations are as follows:

1. Rural Residential Uses

Rural residential uses are compatible with Fairchild AFB if the density does not exceed one dwelling unit per 10 acres. Rural residential clusters are prohibited in MIA3/4. Detached accessory dwellings are prohibited in MIA 3/4.

2. Urban Residential Uses

Urban residential uses are acceptable in MIA 3/4 provided that the underlying zone adopted prior to adoption date of this chapter is a residential zone. The Urban Residential use category is intended to accommodate a variety housing types and densities within the Urban Growth Area (UGA) ranging from one dwelling per acre to densities exceeding 15 dwellings per acre consistent with the underlying residential zoning. Examples of urban residential uses include single-family residences, duplexes, manufactured homes, condominiums, apartments, group homes, motels, hotels, boarding houses where occupancy is arranged for longer than 30 days.

Urban residential uses are permitted where the underlying zone is residential provided that urban residential uses are not permitted where the underlying zone is industrial, commercial or other non-residential zone. Urban residential densities shall not exceed the density allowed by the underlying zone adopted prior to adoption of this Chapter. Urban residential zones adopted prior to the adoption of this regulation shall not be geographically expanded. New residential zones are prohibited. Residential densities allowed by residential zones adopted prior to the adoption of this chapter shall not be increased.

Undeveloped parcels of record legally created prior to this regulation may be developed with a residence provided the underlying zone allows the use and density. All allowed residences shall comply with all requirements of this chapter to include the sound reduction requirements in Section ____500.

Zoning changes and Planned Unit Developments that allow for further urban residential densification or new or expanded residential zones within MIA 3/4 are not permitted.

3. High-Intensity Non-Residential Uses

High-intensity uses are uses that encourage substantial concentrations of people exceeding 180 persons per net acre* and are deemed incompatible with Fairchild AFB. These uses are deemed incompatible because of their potential to put a large number of people in harm's way. Examples of high-intensity uses include religious institutions, theaters, auditoriums, arenas, concert halls, amphitheaters, meeting halls, gymnasiums, skating rinks, bowling alleys, arcades, community centers, universities and colleges, museums, public libraries, funeral homes, arenas, outdoor amphitheaters, outdoor spectator sports, racetracks and speedways, amusement parks, water feature parks and facilities, campgrounds, fairgrounds, circuses, carnivals, eating and drinking establishments, farmers markets, retail sales and services, shopping centers, hotels, motels, auction events, offices, businesses with a large number of employees, bus and rail passenger terminals and mass shelters. Hotels and motels in which occupancy is arranged for over 30 days are deemed residential uses.

New or expanding commercial and industrial uses that result in a net density exceeding 180 persons per net acre* are not permitted as higher densities and are deemed incompatible uses with Fairchild AFB.

Notwithstanding any other provision in this section, non-aviation related museums, libraries, race tracks, hotels, motels, resorts, group camps, non-aviation related colleges and universities participant sports and recreation, amusement parks, recreational vehicle parks, entertainment uses, cultural facilities, public assembly facilities (concert halls, theaters, stadiums, amphitheaters, arenas, community centers, churches and similar facilities) are not permitted.

All other High Intensity Uses are allowed when permitted by the underlying zoning at a net density not exceeding one hundred eighty persons per acre calculated by dividing the building code occupancy of all structures on the site by the acreage of the subject site not including property that has been dedicated as right-of-way.

Permitted uses shall be consistent with the requirements of the underlying zone and all other requirements of the FOZ. For the purpose of this subsection density shall be calculated by dividing the building code occupancy of all structures on the site by the acreage of the subject site not including property that has been dedicated as right-of-way.

4. Low Intensity Non Residential Uses

Low intensity non residential uses do not concentrate people or hazardous materials into small areas, are not sensitive to loud noise and do not directly or indirectly inhibit aviation operations. Examples of Low Intensity Uses include agricultural uses (that do not attract wildlife hazardous to aviation operations), kennels, animal clinics, sales of motorcycles, automobiles, trucks, marine craft, manufactured homes and recreation vehicles, commercial parking, quick vehicle service, maintenance and repair shops, towing services, taxicab terminals, wholesale sales, ministorage, warehouses, non-labor intensive manufacturing, printing and publishing, cemeteries, trails, rail lines, roads, underground utilities.

Non residential uses which do not allow a net density to exceed 180 persons per net acre* are deemed to be compatible with Fairchild Air Force Base and are permitted in MIA 3/4 where the underlying use allows the use.

5. Vulnerable Occupant Uses

Vulnerable occupant uses are uses in which a majority of occupants are children, elderly or disabled or other people who have reduced mobility or are unable to timely respond to emergencies or avoid harm's way. Examples of vulnerable occupant uses include daycare centers, family daycares, schools (grades K-12), hospitals, adult care and other health care facilities where anesthesia is used or patients remain overnight, correctional facilities, retirement homes, nursing homes, convalescent facilities and assisted living care residences.

Uses with vulnerable occupants are allowed outside the Ldn 75 contour when permitted in the underlying zone at a net density not exceeding 180 persons per net acre* calculated by dividing the building code occupancy of all structures on the site provided that retirement homes, nursing homes, convalescent facilities, assisted living care residences, community treatment facilities, child day care, and preschools, hospitals and schools (grades K-12) are not permitted in MIA 3/4.

6. Critical Community Infrastructure

Critical Community Infrastructure includes facilities whereby damage or destruction of which would cause significant adverse effects to public health, safety and welfare within or beyond the immediate vicinity or the facility. Examples of critical community infrastructure include police stations, fire stations, emergency communication facilities, power plants and waste water treatment facilities. Critical community infrastructure is permitted in MIA 3/4 provided that the use is consistent with the underlying zone.

7. Hazardous Uses

Hazardous Uses are uses that release discharge into the air such as smoke, steam or particulates that impair aircraft pilot visibility, uses that have above ground hazardous materials storage or uses that require the storage of large quantities of hazardous (flammable, explosive, corrosive or toxic) materials that have the potential to exacerbate an aircraft accident, or uses that attract wildlife hazardous to military aircraft. Examples of hazardous uses include above ground chemical or fuel storage exceeding household quantities, mining and any uses that have open water associated with the use. Pooling of water resulting from compliance with Section _____.600 (Bird-Aircraft Strike Hazard Requirement) of this chapter is not deemed a hazardous use.

Hazardous Uses may be allowed as a conditional use permit if the Hearing Examiner, after consulting with Fairchild AFB, finds that the proposed use will not create a hazard for military aircraft operations and the underlying zone allows the use. Except that heliports or helipads are not permitted. The Hearing Examiner may apply such reasonable conditions to the conditional use to assure that the mining use is compatible with Fairchild AFB. Examples of conditions are specified in Section _____.450.

8. Accessory Uses

Uses which are identified as a prohibited use as a stand-alone use by the underlying zone is not allowed as an accessory use to a permitted use. For example where a daycare use is prohibited it is not allowed as an accessory use to a permitted use such as an office.

Non-Residential Density

For the purpose of this subsection the calculated density shall be no greater than 180 persons per individual acre after subtracting public rights of way. However, in consultation with Fairchild Air Force Base officials, alternatives to this calculation may be allowed by the Director if it is deemed to be compatible to the mission of Fairchild Air Force Base. For the purpose of this section, the terminology "consultation" shall mean written notification by the Director to Fairchild Air Force Base officials of a project proponents proposed alternative calculations and consideration by the Director of any written comments received from Fairchild Air Force Base officials within 15 days of the officials receipt of notice of a proposed alternative. If the Department of Building and Planning receives no comment from Fairchild Air Force Base within the applicable comment period the Department of Building and Planning shall presume that the calculated density shall be no greater than 180 persons per individual acre after subtracting public rights-of-way.

_____.450 Review of Permitted Uses and Conditional Use Permits locating in MIA 3/4 – Application of Reasonable Conditions

The Department shall review applications for permitted uses for consistency with the applicable requirements of this Chapter. The Director may require a detailed site development plan to include but not be limited to a written description and illustration of site development, specific placement of all site improvements, height of improvements and other

site alterations concurrent with development. The information shall include sufficient detail to enable the Department or the Hearing Examiner, in regards to a conditional use permit, to determine that the proposal is compatible with current and future operations of Fairchild AFB and consistent with all requirements of this Chapter.

The Director or the Hearing Examiner in regards to a conditional use permit may attach reasonable conditions to the approval of use as necessary to assure consistency with this Chapter and compatibility with Fairchild Air Force Base. Conditions may address but not be limited to the following:

- establishment of buffers
- site specific building envelopes and placement
- vegetation removal and limitations on vegetation heights
- location and installation of utilities
- post development management and operations
- structural design
- structural height, location and orientation
- light and glare suppression
- birdlife suppression
- air emissions abatement
- limitations on communication equipment
- other reasonable conditions or safeguards that will uphold the purpose and intent of this Chapter to protect Fairchild Air Force Base consistent with Comprehensive Plan Goals and Policies
- sound attenuation

The Director or the Hearing Examiner, whichever applies, may apply additional reasonable conditions based on recommendations of Fairchild Air Force Base officials.

460 General Use Restrictions - MIA 3/4

1. No use shall be constructed or installed in the Military Influence Area 3/4 designation that would cause any one of the following circumstances.
 - a. The use creates or causes interference with the operations of military communications or electronic facilities.
 - b. The use makes it difficult for pilots to distinguish between airport lights and other lights.
 - c. The use results in glare which impairs pilot vision.
 - d. The use impairs pilot visibility in the vicinity of Fairchild AFB.
 - e. The use endangers the landing, taking off, or maneuvering of aircraft.
 - f. The use creates a wildlife attractant that, in the opinion of Fairchild AFB, could interfere with military operations.
 - g. The use would create a fire accelerant or secondary explosion resulting from an aircraft crash in an accident potential zone.
 - h. Permitted uses shall not create large areas of standing water which would be attractive to bird life or other wildlife which would conflict with Fairchild AFB operations.
 - i. Any use which otherwise endangers incoming or outgoing aircraft or the maneuvering of aircraft in the vicinity of Fairchild AFB.

2. Stormwater facilities located within MIA 3/4 shall be designed in compliance with the Washington State Department of Transportation Aviation Stormwater Design Manual - Best Management Practices.
3. New buildings and structures located on vacant parcels created before the effective date of these regulations, and where any portion of the parcel lies within a designated clear zone, APZ 1, or APZ 2, should be situated on the side of the parcel farthest from Fairchild AFB runway centerline and extended runway centerline, provided that the placement is consistent with the setback requirements of the underlying zone.
4. All development shall comply with the structure height restrictions specified in Section _____.300 of this Chapter.

_____.470 Exemptions – MIA 3/4

Necessary military or aviation facilities, air navigation facilities, airport visual approach or aircraft arresting devices, meteorological devices, aviation industry related maintenance, military aviation training and education facilities approved by the Federal Aviation Administration (FAA) or the Department of Defense, for which the location and height is fixed by its functional purpose are exempt from the provisions of the Fairchild Overlay Zone when permitted in the underlying zoning district, provided that the use will not penetrate the UFC 3-260-01 imaginary surfaces, attract wildlife that is hazardous to aviation, adversely impact base operations, or create a safety impact as determined by Base officials.

_____.480 Conflict with Underlying Zone Requirements

The Fairchild Overlay Zone serve as an overlay district that applies additional standards and requirements to properties located within the underlying zoning designations. Where a FOZ requirement overlaps or is in conflict with the underlying zone requirements the most restrictive requirement applies.

_____.500 Noise Impact Areas

_____.510 Noise Impact Area Established

A Substantial Noise Impact Area is hereby established and is included within Military Influence Area 3/4, as illustrated on the official zoning map. The zoning map may be amended when conditions change or as new information becomes available. The Noise Impact Area map is available for review at the Department of Building and Planning. The zoning map is the official reference map for the noise impact regulations in this section. The zoning map illustrates the boundary of the Noise Impact Area and includes the 70 and 75 Ldn sound contours and said boundary and contours are based on the sound impact calculation methodologies specified in Federal Aviation Administration, Codified Federal Regulations (CFR) Part 150. The Ldn sound contours are based on sound generated from current and future deployment of strategic military aircraft.

_____.520 Application to new, existing structures, additions and changes of use

1. New Structures

The noise reduction level specified in Section _____.530 shall apply to all new residential structures to include manufactured homes and to structures intended for congregate living which are located in MIA 3/4. Structures described herein locating within MIA 3/4 shall comply with the noise reduction standard specified in Section _____.530.

2. Exemptions

Garages, basements, utility rooms and accessory structures not occupied as dwelling unit are exempt from the requirements of this section.

3. Reconstruction, remodeling or additions

The noise reduction standard specified in Section _____.530 shall apply to reconstruction, remodeling or additions or other improvements to existing structures types as described in item 1 above when the value of the improvements equals or exceeds 50 percent of the value of the existing structure as specified by the Spokane County Assessor exclusive of the underlying land value. The value of the proposed work shall be determined using the current valuation schedule published by the International Code Council in the Building Safety Journal. One or more licensed contractor estimates may also be used at the discretion of the Building Official. This requirement applies to a structure that has been damaged and is being restored to a condition approximating the characteristics of the structure before occurrence of damage.

4. Change in Use

Any change of use in the occupancy or use of a structure previously not occupied or approved as a dwelling unit to a use intended to as a living quarters shall comply with the noise reduction requirements of this section provided the requirements do not apply to any improvements specified in item 2 above relating to exemptions.

This Section is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances. This Section is intended to be a companion to the adopted underlying zoning code requirements and further supersede those requirements where they are less restrictive than the requirements in this Section. In the case of conflict between this chapter and any other applicable codes the more restrictive requirements shall be met.

_____.530 Noise Reduction Features and Materials Required

All structures or portions thereof subject to this regulation as specified in Section _____.520 shall be constructed with sound reduction features and materials to achieve a day/night average interior noise level of 45 dB. Structures subject to the noise reduction level required in this section shall incorporate noise reduction features and materials as necessary to achieve an average interior sound level of 45 dB in accordance with Department of Navy Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations

The building permit application for a structure subject to this Section shall include such additional information as deemed necessary specifying noise reduction features and materials necessary to achieve a day/night average interior sound level of 45 dB. Information regarding sound reduction features and materials shall be prepared and certified by a Washington State registered engineer, architect or acoustical expert recognized by an acoustical design related association. Said plans or revision to such plans shall be certified by the Washington State registered engineer, architect or acoustical expert as follows:

The construction plans/documents submitted with building permit application_____ provide the sound reduction materials and features are consistent with the Guidelines for Sound Insulation of Residences Exposed to Aircraft Operations Chapter as specified in the _____ Fairchild Overlay Zone Regulations.

All development subject to this noise reduction regulation shall have the noise reduction features and materials periodically inspected during the course of construction by the engineer, architect or acoustical expert who certified the building plans.

Upon completion of construction and prior to issuance of a certificate of occupancy, the sound reduction construction inspector shall submit to the Department of Building and Planning a signed certification specifying that the required noise reduction features and materials have been completed/installed in substantial conformance with the approved construction documents. Said certification shall be included in the building permit file in the Department of Building and Planning.

.540 Details for Plans and Specifications

The proposed structure plans and specifications shall show in sufficient detail all pertinent data and features of the building and the equipment and systems, as herein governed, including, but not limited to, exterior envelope component materials, STC ratings of applicable component assemblies, R values of applicable insulation materials, size and type of apparatus and equipment, equipment and system controls, and other pertinent data as required by the Building Official to indicate conformance with the requirements herein.

.570 Disclosure Statement Required

Prior to the issuance of a building permit for the construction or placement of any new structure or for any reconstruction, repair, addition or improvement of an existing structure to include accessory structures shall comply with the aircraft activity notification requirement specified in Section .910

.600 Bird – Aircraft Strike Hazard Requirement

Stormwater Management facilities associated with development located in Military Influence Areas 2 and 3/4 shall be designed in compliance with the Washington State Department of Transportation Aviation *Stormwater Design Manual Best Management Practices and as may be amended*. Prior to the Building Department issuing the final certificate of occupancy the Department of Building shall receive notice from the responsible public stormwater management agency that project improvements are in compliance with the stormwater requirement specified herein.

A project landscaping plan shall be provided to Fairchild AFB for comment where such landscaping plan is a required element of the development application as specified by the Spokane County Zoning Code. The Director or Hearing Examiner shall consider Fairchild AFB comment prior to taking action on the development application and may apply conditions of approval related to landscaping based on said comment. Required landscaping plans shall provide a detailed description of all species of trees and shrubs intended to be installed.

.700 Fairchild AFB Review Required MIA 2 and 3/4

.701 Fairchild AFB Required Review

The Department of Building and Planning shall request comment from Fairchild Air Force Base officials and may apply reasonable conditions of development approval based on written recommendations from Fairchild AFB. Fairchild AFB shall be given a minimum of 15 days to comment on a project application. If the Department of Building and Planning receives no comment from Fairchild AFB within the applicable comment period the Department of Building and Planning may presume that Fairchild AFB has no objections. Development actions subject to this requirement include but are not limited to the following development proposals located within Military Influence Areas 2 and 3/4:

Preliminary Plat Applications
Preliminary Short Plat Applications

Preliminary Binding Site Plan Applications
All projects proposing open water features
Application for new commercial and industrial uses
Public facility proposals deemed to have a potential impact on Fairchild AFB
All development permits proposing structures exceeding 35 feet in height
or any lesser height otherwise deemed to have a potential impact on Fairchild AFB
Any development proposal the Director deems appropriate for Fairchild AFB review
Environmental evaluation documents regarding projects located in MIA 3/4

The above specified 15-day comment period may be extended by the Director up to an additional 30 days based upon request for additional review time from Fairchild AFB.

.800 Avigation Easements MIA 2 and 3/4

.801 Avigation Easement Required

Prior to issuance of a building permit for a new structure within Military Influence Areas 2 and 3/4 the awarding of an avigation easement in a form approved by the Department and in consultation with Fairchild Air Force Base by the property owner(s) to Fairchild AFB shall be required and recorded in the Spokane County Auditor's Office. The Department shall provide the avigation easement form and such form shall at a minimum provide that:

1. The landowner, successors and assigns will not construct structures, install exterior lighting, allow trees to penetrate FAA imaginary surfaces or construct or install improvements that interfere with Fairchild AFB aircraft operations.
2. Provide protection to FAFB against liability for any nuisance caused by aircraft operations due to noise impacts, fumes, vibrations affecting the use and enjoyment of the subject property.
3. Allow military aircraft to use the airspace over the subject property. The applicant shall provide the Department a copy of the easement agreement with Auditor's recording number indicated thereon and said copy shall be placed in the Department's project file.

As a condition of preliminary approval of any subdivision, short subdivision or binding site plan located in MIA 2 or 3/4 an avigation easement in a form approved by the Department in consultation with Fairchild Air Force Base shall be recorded in the Spokane County Auditors Office prior to finalization of subdivision, short subdivision or binding site plan and said easement shall at a minimum provide that that 1) that the landowner, successors and assigns will not construct structures, plant trees, install exterior lighting or any other development that might interfere with Fairchild AFB aircraft operations and 2) provide protection to FAFB against liability for any nuisance caused by aircraft operations due to noise impacts, fumes, vibrations affecting the use and enjoyment of the subject property and 4) allow military aircraft to use the airspace over the subject property and 5) such easement applies in perpetuity to all property illustrated on the face of the final plat or short plat and as described in the required plat certificate.. The applicant shall provide the Department a copy of the easement agreement with the Auditor's recording number indicated thereon and said copy shall be filed in the Department's project file

.900 Notification of Military Aircraft Activity MIA 2 and 3/4

_____.910 Notification of Military Aircraft Activity Required

Notification of Fairchild AFB aircraft activity notification shall be provided in Military Influence Areas 2 and 3/4 as follows:

1. Building Permits

Prior to the issuance of a building permit for the construction or placement of any new structure intended for human occupancy or for any reconstruction, repair or improvement of an existing structure intended for human occupancy the owner or applicant shall record a title notice in the Spokane County Auditor's Office and said title notice shall state the following:

"This property is located in close proximity to Fairchild Air Force Base and is routinely subject to military aircraft overflight activity; occupants may experience inconvenience, annoyance, or discomfort from noise, smell or other effects of military aircraft activities."

This requirement does not apply to structures located on an Assessor tax parcel which is subject to a previously filed title notice meeting this requirement.

2. Land Use Actions

A title notice shall be recorded with the Spokane County Auditor prior to final approval of a new subdivision, short subdivision, conditional use permit and binding site plan and said title notice shall state the following:

"This property is located in close proximity to Fairchild Air Force Base and is routinely subject to military aircraft overflight activity; occupants may experience inconvenience, annoyance, or discomfort from noise, smell or other effects of military aircraft activities."

This language shall also be set forth on the face of the final subdivision, final short subdivision or final binding site plan.

The title notice required in item 1 and 2 above shall specify the Assessors Tax Parcel number and parcel address and a copy of the recorded notice shall be provided to the Department for inclusion in the project file.

_____.920 Real Estate Transaction and Lease Notice Required

1. Lease

Owners of residential rental or lease housing located in Military Influence Areas 2 and 3/4 shall provide written notice to the renter or lessee specifying that the property is located in close proximity to Fairchild Air Force Base and is routinely subject to overflights by military aircraft; residents may experience inconvenience, annoyance, or discomfort from noise, smell or other effects of aircraft activities. The renter or lessee shall sign the notice acknowledging its contents prior to signing the lease agreement (Refer to Appendix VIII- Aviation Activity Notice).

_____.1000 Non Conforming Uses and Structures

_____.1010 Nonconforming Uses Resulting from the application of Fairchild Overlay Zone Regulations.

The intent of this section is to allow retention of uses rendered nonconforming as a result of the application of the requirements the Fairchild Overlay Zone and to permit continued investment and upgrades to existing buildings and sites made nonconforming solely as a

result of the adoption of these regulations. In the event of an inconsistency between this Section and underlying zone requirements, this section shall control.

A. A non-conforming structure in the Clear Zone shall not be expanded in height or bulk. When a non-conforming structure, because of damage, destruction, deterioration or other reason, is determined to be unfit and needs to be demolished, it may not be restored or reconstructed unless in full compliance with the requirements of the underlying zone and this Section _____. In order to reinstate nonconforming rights under this chapter to a structure which has been damaged or partially destroyed to an extent less than sixty percent of its value, the owner must cause restoration to begin within one year after the damage or the destruction and must continue to make substantial progress as required by the building permit.

B. The following provisions refer to the use categories specified in Section _____.420 of this regulation:

1. Nonconforming Residential Uses may be rebuilt if destroyed or damaged. No additional dwelling units may be added. Buildings housing nonconforming residential uses or accessory buildings may be expanded within the same parcel subject to the standards of the underlying zoning.
2. Nonconforming High-Intensity and Vulnerable Occupant Uses shall not be expanded in such a way as to cause the building code occupancy to increase. Nonconforming High-Intensity and Vulnerable occupant uses may be rebuilt to the same square footage and occupancy if damaged or destroyed.
3. Nonconforming Critical Community Infrastructure may be rebuilt if destroyed or damaged. Facilities may be expanded or improved on the same parcel to the extent that new capacity is not added.
4. When a building containing a Hazardous Use, because of damage, destruction, deterioration or other reason, is an unfit building which needs to be demolished, it may not be restored or reconstructed unless in full compliance with the requirements for the underlying zone and the Fairchild Overlay Zone. In order to reinstate nonconforming rights under this chapter to a building which has been damaged or partially destroyed to an extent less than sixty percent of its value, the owner must cause restoration to begin within one year after the damage or the destruction and must continue to make substantial progress as required by the building permit.
5. Facilities housing a non-conforming Hazardous Use may be expanded or improved so long as the hazardous nature of the use is not increased.
6. Any building intended for human occupation located in the Military Impact 3/4 that is allowed to be rebuilt as the result of this section shall be designed to achieve an interior noise level not exceeding forty-five decibels.

_____.1020 Nonconforming Buildings and Structures

Restoration of a nonconforming building or structure which is damaged by fire, flood, or act of nature shall be initiated, as evidenced by the issuance of a valid building permit within 1 year of the date of such damage or destruction, and diligently pursued to completion. Upkeep, repair, and maintenance of nonconforming buildings are permitted. A building or structure conforming with respect to use, but not conforming with respect to height, yard requirements,

coverage or density, may be restored in the event of damage, or altered or extended provided that the alteration or extension does not result in further nonconformance with this Section.

.1100 Appeal of Administration Determinations and Interpretation

An administration determination or interpretation pertaining to the requirements of this section may be appealed to the Hearing Examiner pursuant to the appeal procedures criteria specified in Spokane County Code

.1200 Exemptions

Necessary aviation facilities supporting Fairchild Air Force Base operations and Spokane International Airport (SIA) operations such as but not limited to air navigation facilities, aircraft visual approach or aircraft arresting devices, meteorological devices, aviation industry related maintenance, aviation training and education facilities approved by the Federal Aviation Administration (FAA) or the Department of Defense, for which the location and height is fixed by its functional purpose are exempt from the provisions of the Fairchild Overlay Zones when permitted in the underlying zoning district, provided that the use will not penetrate UFC 3-260-01 military imaginary surfaces or Federal Aviation Regulations (FAR) Part 77 imaginary surfaces, attract wildlife that is hazardous to aviation, adversely impact Base or SIA operations, or create a safety impact as determined by the Base Commander.

.1300 Definitions

Definitions (the below definitions will be included in Definition Section .1300)

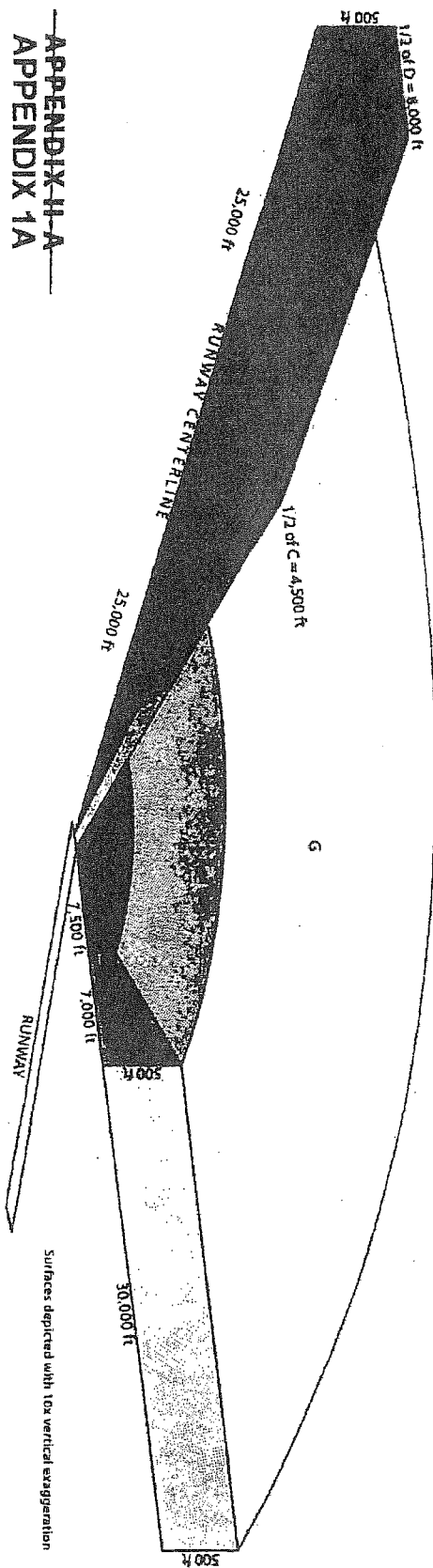
- 1) Ldn means a day-night average sound level and serves as a basic measure for quantifying noise exposure, namely, the A-weighted sound level averaged over a 24-hour time period, with a 10-decibel penalty applied to nighttime (10:00 p.m. to 7:00 a.m.) sound levels.
- 2) Noise level reduction (NLR)" means the amount of noise reduction required through construction and incorporation of sound reduction materials and design to reduce interior noise levels.
- 3) Noise reduction coefficient (NRC)" means the arithmetic average of the sound absorption coefficients of a material at 250, 500, 1,000, and 2,000 Hz.
- 4) Sound transmission class (STC)" means a single-number rating for describing sound transmission loss of a wall, partition, window or door.
- 5) Decibel (dB)" means the measure of sound pressure or intensity.
- 6) Sound contours" means a geographic interpolation of Aviation Noise Contours as established by the 2010 Fairchild AFB Joint Land Use Study and placed on the official zoning map. When a property falls within more than one noise zone, the more restrictive noise zone requirements shall apply for the entire property.
- 7) Interior noise level" means the average sound level of sound in expressed in decibels (dB) measurement in any habitable room with exterior windows and doors closed.
- 8) Dwelling unit or dwelling means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

APPENDIX "1A"

APPENDIX II-A APPENDIX 1A

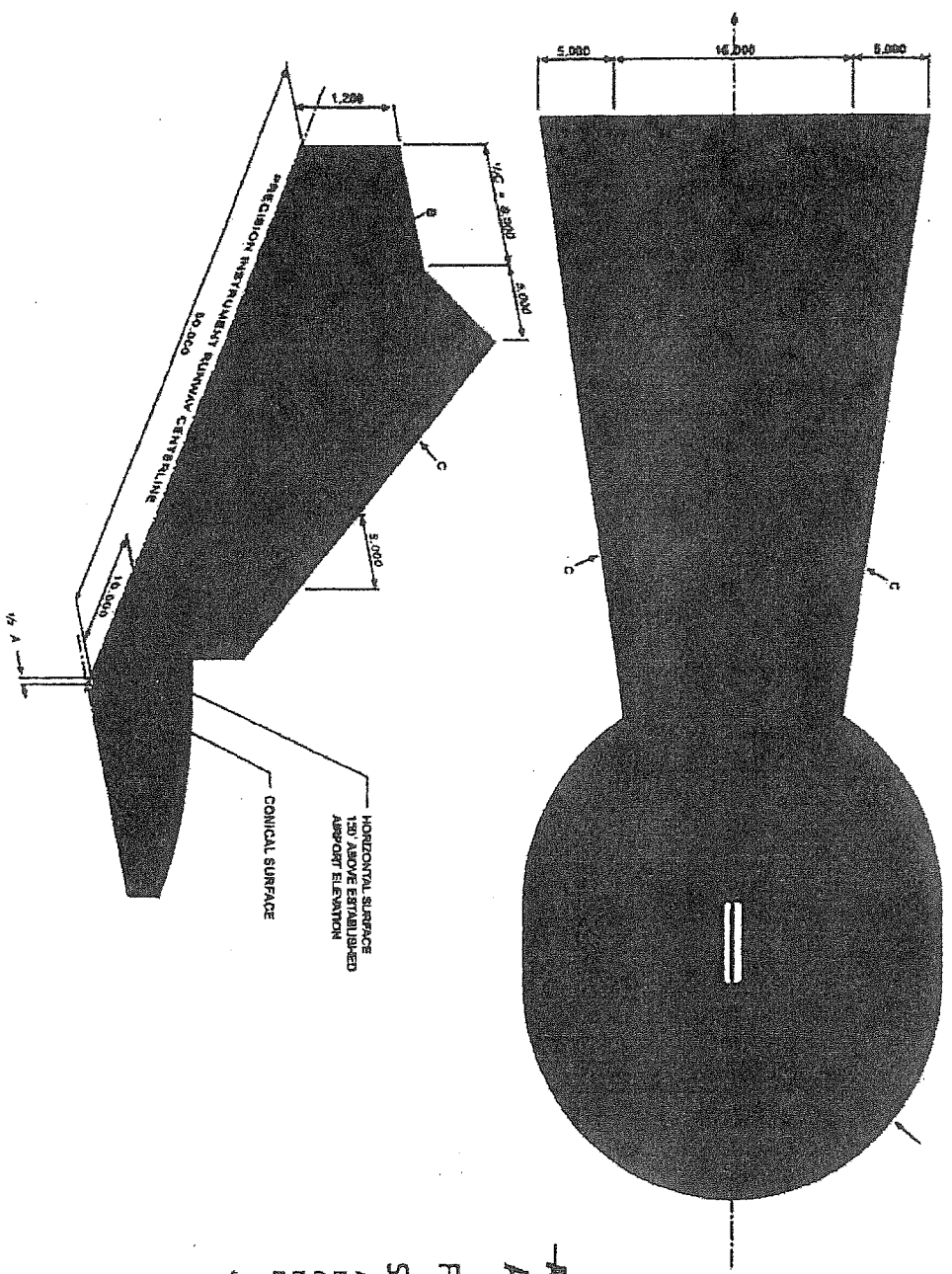
AIR FORCE RUNWAY AIRSPACE IMAGINARY SURFACES*

- A Primary Surface (not shown)
- B Clear Zone Surface (not shown)
- C Approach-Departure Clearance Surface (50:1 Slope Ratio)
- D Approach-Departure Clearance Surface (Horizontal)
- E Inner Horizontal Surface (150 ft Elevation)
- F Conical Surface (20:1 Slope Ratio)
- G Outer Horizontal Surface (500 ft Elevation)
- H Transitional Surface (not shown)
- I Not used
- J Accident Potential Zone (APZ) (not shown)



*Reference: Department of Defense (DoD) Unified Facilities Criteria (UFC) 3-260-01, Table 3-7, portion of Table related to a Class B Runway

APPENDIX "1B"



~~APPENDIX 11-B~~ APPENDIX 1B

FAA IMAGINARY SURFACES*

SURFACE SLOPE KEY

- A Primary Surface Zone
- B Precision Instrument Runway Zone
- C Transitional Surface Zone
- D Horizontal Surface Zone
- E Conical Surface Zone

*Reference: 14 Code of Federal Regulations (CFR) Part 77