Fabens Airport

Fabens Airport Zoning Masterplan
El Paso County

September 2020


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Fabens Airport
Zoning Masterplan

Was Created By . . .

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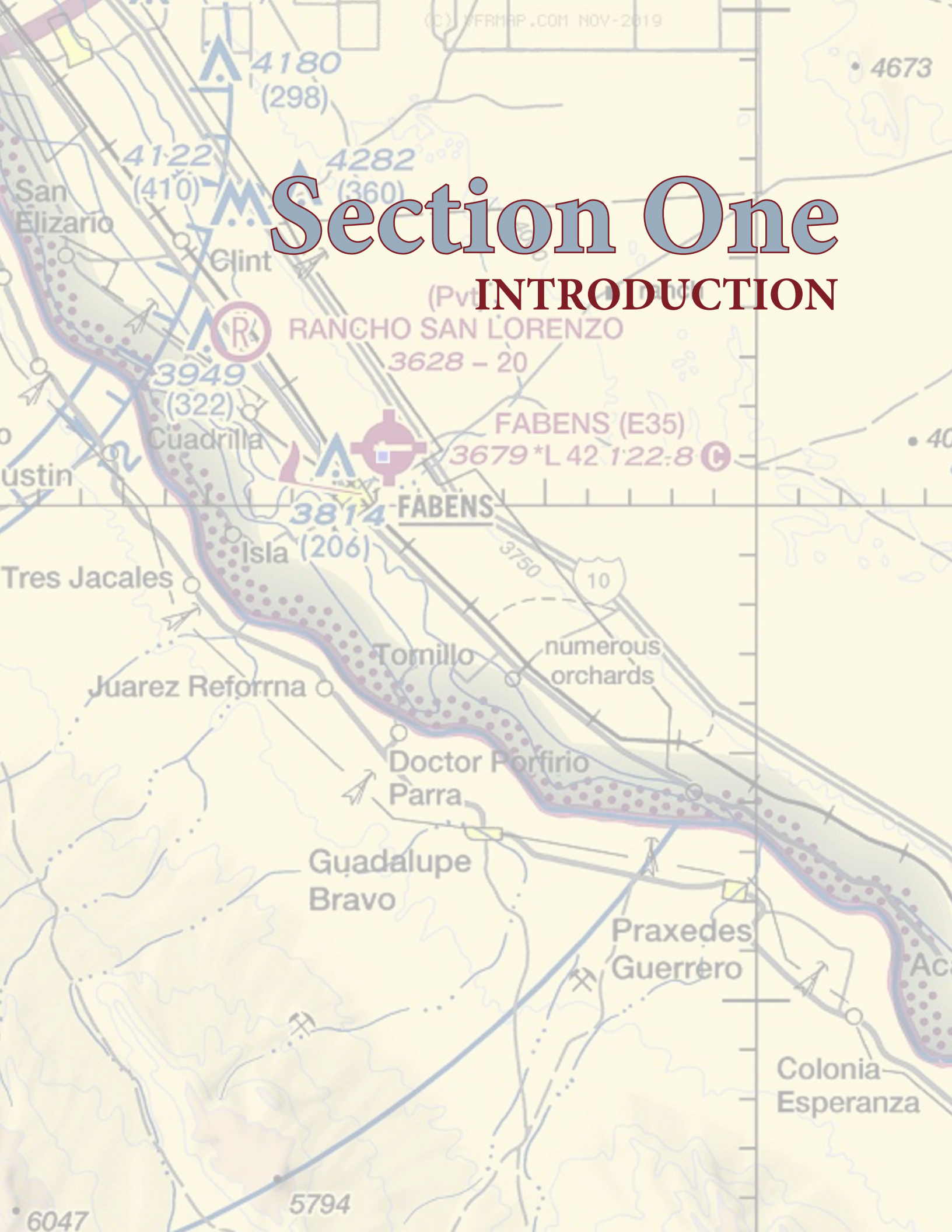


Section One

INTRODUCTION

SECTION ONE:
INTRODUCTION

INTRODUCTION

For residents living in Fabens, Texas, the idea of creating zoning regulations seems like a foreign concept. In Texas, zoning in the county and especially in rural areas is not allowed. However, Chapter 241 of the Texas Local Government Code permits counties to zone very specific areas within county public airports.

This masterplan seeks to provide guidance to the El Paso County and the residents of Fabens to better understand zoning as it relates to the county's airport and to efficiently implement zoning regulations.

The Fabens Airport is a public airport owned and managed by the El Paso County and is located in Fabens, approximately 30 miles east of El Paso. The airport is a general aviation facility with one primary runway: Runway 8/26 which measures 4,200 feet. The smaller runway, Runway 16/34, was declassified in fiscal year 2019. According to the Texas Aviation Economic Development Impact Study, the most frequent aviation activities "include agricultural spraying and business, cross-country and recreational flights."

In recent years the Fabens Airport has seen increased focus from Commissioners Court and County staff. In 2016, the El Paso County entered into an agreement with the University of Texas at El Paso (UTEP) for development of the NASA MIRO Center for Space Exploration and Technology Research. In 2018, the County government received a $90,000 grant from Texas Department of Transportation to conduct an Airport Business Development Plan, which will be completed in Summer 2020.

Recognizing that the Fabens Airport and the County's initiatives will continue to increase in size and scope, the El Paso County wants to ensure that processes and plans are put in place for successful capacity building while protecting the general welfare of Fabens residents. To this end, Atkins North America and Gallinar Planning & Development, LLC, serving as subconsultants, were hired by the Camino Real Regional Mobility Authority to provide this masterplan along with technical assistance for creating a County Court Order to implement zoning regulations as outlined in Chapter 241.

Texas State Historical Association
An Independent Nonprofit Since 1897

SHORT HISTORY OF FABENS, TEXAS
TEXAS STATE HISTORICAL ASSOCIATION
By Martin Donell Kohout

FABENS, TEXAS. Fabens is located on the Southern Pacific Railroad and State Highway 20 a mile southwest of Interstate Highway 10 and twenty-five miles southeast of downtown El Paso in southeastern El Paso County. The history of the town dates from the late nineteenth century, though in 1665 a mission branch known as San Francisco de los Sumas was established just southeast of the future site of Fabens, and a stagecoach station called San Felipe was in operation about three miles northeast of the site before 1870. In the 1870s Teodoro and Epitacia Álvarez owned a small farm on the actual site of Fabens, which was known as the Mezquital. In 1887 the townsite was sold to E. S. Newman by Sabas Grijalva and Diego Loya. The first permanent settler in what is now Fabens was Eugenio Pérez, who came from San Elizario around 1900. He owned a small farm and opened a small store shortly thereafter, when the Galveston, Harrisburg and San Antonio Railway built through the area and established a water-pumping station. In 1906 this store became the first Fabens post office. The town was named for George Fabens, an officer with the Southern Pacific.

Patrick O'Donnell, a native of Ireland working for the railroad, and his wife, Johanna, arrived in 1901 and lived in a section house. In 1910 Fabens had a few section houses and two stores, and in 1914 the estimated population was 100. The next few years brought to the area as many as 1,000 people fleeing the Mexican Revolution. The townsite was laid out in 1911, but development of Fabens did not begin in earnest until the Fabens Townsite and Improvement Company acquired it in 1915. The completion in 1916 of the Franklin Canal and the rise in cotton prices during World War I attracted a number of wealthy investors to the area. The estimated population rose from fifty in 1925 to 2,000 two years later, despite a major flood in 1925 or 1926. The price of cotton dropped during the Great Depression, and the estimated population of Fabens fell to 1,623 in the early 1930s, but it had risen to 1,800 by 1939. In the ensuing decades it continued to rise, to 2,100 in the mid-1940s; 3,089 in the mid-1950s; 3,300 in the mid-1960s; 3,400 in the mid-1970s; 5,599 in 1990; and 8,043 in 2000.

BIBLIOGRAPHY:

William V. D'Antonio and Irwin Press, Fabens, Texas: A Community Study (Notre Dame, Indiana: University of Notre Dame Department of Sociology and Anthropology, 1970).

Zoning 101

Before outlining the specifics of zoning in Chapter 241, it is important to discuss zoning in general and how it is applied in communities that have zoning authority.

Zoning was first applied in New York City in 1916 with the adoption of a zoning ordinance which regulated the use and location of buildings throughout the city. Zoning was implemented as a way to alleviate overcrowding conditions and to mitigate the encroachment of incompatible land uses.

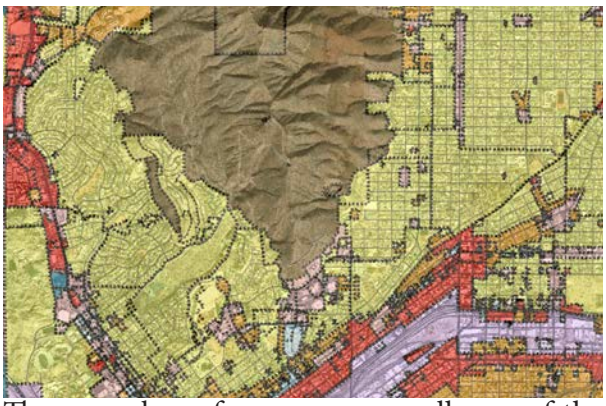
After NYC adopted zoning regulations, in 1921 Herbert Hoover, Secretary of Commerce at the time, created a zoning advisory committee to prepare zoning standards which came to be known as the Standard State Zoning Enabling Act or the "Standard Act". Texas adopted the Standard Act in 1927 thus giving cities zoning authority as outlined by Congress.

In *Principals and Practice of Urban Planning*, zoning is described as follows:

"Zoning is essentially a means of insuring that the land uses of a community are properly situated in relation to one another, providing adequate space for each type of development. It allows the control of development density in each area so that property can be adequately serviced by such governmental facilities as the street, school, recreation, and utility systems. This directs new growth into appropriate areas and protects existing property by requiring that development afford adequate light, air and privacy for persons living and working within the municipality."

In practice, governments that implement zoning regulations create a zoning map designating each parcel of land with a zoning district. This identifies what can and cannot be built on the property. Items regulated by zoning districts can include, land use, height of structures, lot dimensions (width and size), amount of parking based on proposed use, and the type and size of commercial signs, among other items. Zoning can be prescriptive and can create specific designed communities and commercial areas. Overall, zoning is intended to maintain order by ensuring the general safety, health, and welfare of the community.

CITY OF EL PASO ZONING MAP



The map above focuses on a small area of the City of El Paso and illustrates how a zoning map works. The map shows the various zoning districts by color. For example, parcels outlined in yellow allow single family homes and have very specific zoning standards. Red allows commercial land uses, orange is generally multi-family, and light purple is reserved for industrial. Property owners must follow whichever zoning standards apply to their parcel of land.

Zoning in County Areas: Chapter 241 of the Texas Local Government Code

In Texas, counties have some land use controls, typically through subdivision and platting procedures. This subdivision authority can help control land development as it relates to issues such as road standards, water and wastewater, and other environmental concerns. However, zoning, as described in the previous section, is generally not allowed in a county's unincorporated areas.

There is one exception regarding zoning in county areas and that has to do with areas surrounding airports. The Airport Zoning Act or Chapter 241 of the Texas Government Code allows counties to develop zoning districts in areas around airports as a means to reduce hazards and limit incompatible uses that may interfere with airport activities.

AIRPORT ZONING ACT (AZA)

The AZA outlines the measures by which counties can enact zoning regulations in those areas surrounding an airport. The one major item to note, is that unlike traditional zoning granted to municipalities, the AZA gives counties very specific and limited powers to regulate land through zoning.

The AZA outlines two types of zoning regulations: Airport Hazard Area Zoning Regulations and Airport Compatible Land Use Zoning. More information on these two areas will be outlined in Section Three of this plan.

The Airport Hazard Area may include zoning regulations within various zones limited to the following three areas: land uses permitted, types of structures, and restrictions on the height of structures or objects of natural growth to prevent the creation of an obstruction.

If a county is to implement Airport Compatible Land Use Zoning it must do so in the Controlled Compatible Land Use Area, which is an area of land located outside the airport boundaries no farther than 1.5 miles from the centerline of a primary runway and no farther than five miles from each end of the paved surface of a primary runway.

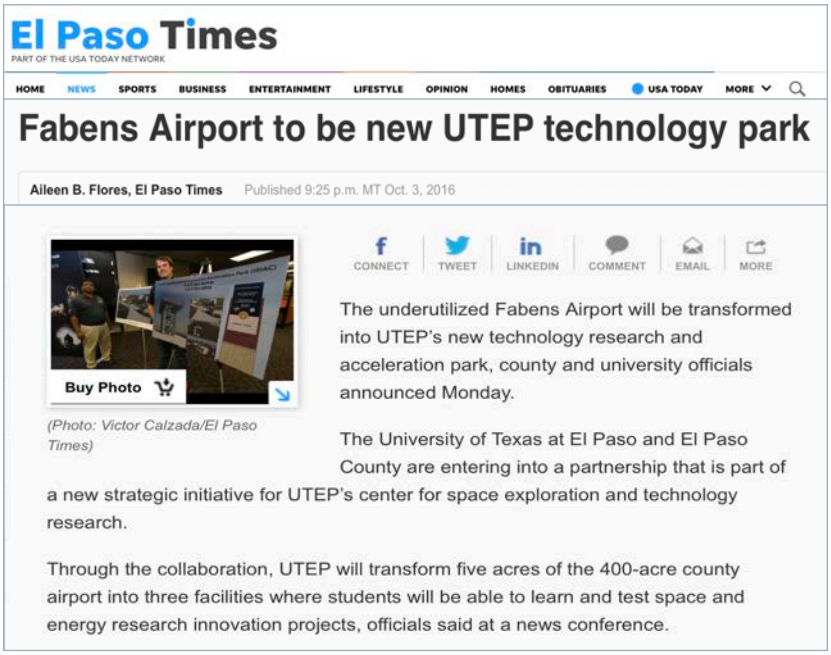
A county shall establish an Airport Zoning Commission to adopt, administer, and enforce zoning regulations.

Airport zoning regulations may require a permit to be obtained before a new structure is constructed, an existing structure is substantially changed or repaired, a new use is established, or an existing use is substantially changed.

A Zoning Board of Adjustment shall also be created to provide an appeals process and variances for property owners from decisions made by the Airport Zoning Commission.

A county shall establish an Administrative Agency to provide for the administration and enforcement of the regulations.

CENTER FOR SPACE EXPLORATION & TECHNOLOGY RESEARCH CENTER--UNIVERSITY OF TEXAS AT EL PASO



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Fabens Airport to be new UTEP technology park

Aileen B. Flores, El Paso Times Published 9:25 p.m. MT Oct. 3, 2016

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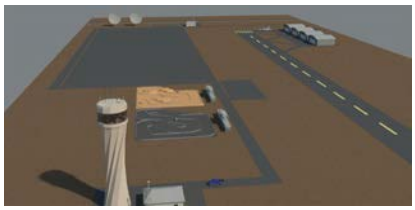
(Photo: Victor Calzada/El Paso Times)

The underutilized Fabens Airport will be transformed into UTEP's new technology research and acceleration park, county and university officials announced Monday.

The University of Texas at El Paso and El Paso County are entering into a partnership that is part of a new strategic initiative for UTEP's center for space exploration and technology research.

Through the collaboration, UTEP will transform five acres of the 400-acre county airport into three facilities where students will be able to learn and test space and energy research innovation projects, officials said at a news conference.



Renderings of UTEP's plans for the Fabens Airport. Source: El Paso Times

In October 2016, El Paso County entered into an agreement with the University of Texas at El Paso (UTEP) to develop a high-tech research park centered on aerospace and defense manufacturing technologies.

Image shows the test cells utilized by UTEP at Airport.

It is through this partnership, UTEP develops test cells on five acres where students can learn and test space and energy projects. These new facilities are expected to promote economic development in the area by attracting businesses with similar interests.

During the October 2016 announcement, Dr. Ahsan Choudhuri, Chair of UTEP's Mechanical Engineering Department and Director of the university's Center for Space Exploration and Technology Research said the following:

"This is to transform the east gateway of El Paso. We want to send a clear message to the rest of the country that El Paso is not a destination if you are looking for low-wage labor, rather, this is the place where frontier technologies are being developed."

SECTION ONE:
INTRODUCTION

Residents and staff listen to a presentation during the November 20, 2019 public meeting.

Public Process

This masterplan was developed with several community outreach strategies, research regarding Chapter 241, coordination with County staff, and multiple discussions with stakeholders.

COMMUNITY MEETINGS: Gallinar Planning & Development, LLC (GPD) and County staff led a series of community meetings in Fabens. The first meeting took place on September 18, 2019. A second meeting took place on November 20, 2019. A third and final meeting was held June 19, 2020. Meetings took place at the County Road and Bridges Facility.

The first meeting was an Open House Meeting where participants stopped by between 5PM and 7PM. The November meeting was a Public Presentation. Residents asked questions about the process to create this plan.

The second meeting was a formal presentation followed by a questions and answers period. GPD and County staff were available to answer questions from the public.

The third meeting held in June 2020 was a drive-in format ensuring social distance protocols. GPD provided a presentation projected on a large screen like a movie. Residents were invited to ask questions. More than 60 people participated in this unique meeting.

Public Process

CITIZEN INFORMATION TOOLS

As part of the overall outreach strategy, GPD utilized several methods of gathering information. These included one-on-one interviews with stakeholders, comment cards, and bilingual fliers with pertinent information.

PLAN DE ZONIFICACIÓN DEL AEROPUERTO DE FABENS

¿Qué imaginas para el aeropuerto de Fabens? ¿Qué tipo de actividades de desarrollo económico te gustaría ver?

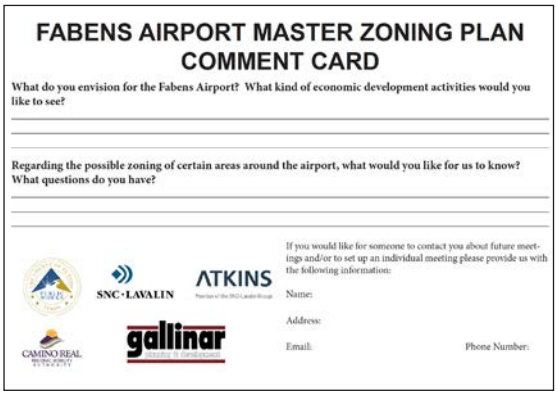
Con respecto a la posible zonificación de ciertas áreas alrededor del aeropuerto, qué le gustaría que supiéramos? ¿Qué preguntas tiene usted?

Si desea que alguien se ponga en contacto con usted sobre reuniones futuras y / o establezca una reunión individual, proporciónenos la siguiente información:

Nombre:

Dirección:

Correo electrónico: Número de teléfono:



FABENS AIRPORT MASTER ZONING PLAN COMMENT CARD

What do you envision for the Fabens Airport? What kind of economic development activities would you like to see?

Regarding the possible zoning of certain areas around the airport, what would you like for us to know? What questions do you have?

If you would like for someone to contact you about future meetings and/or to set up an individual meeting please provide us with the following information:

Name:

Address:

Email: Phone Number:

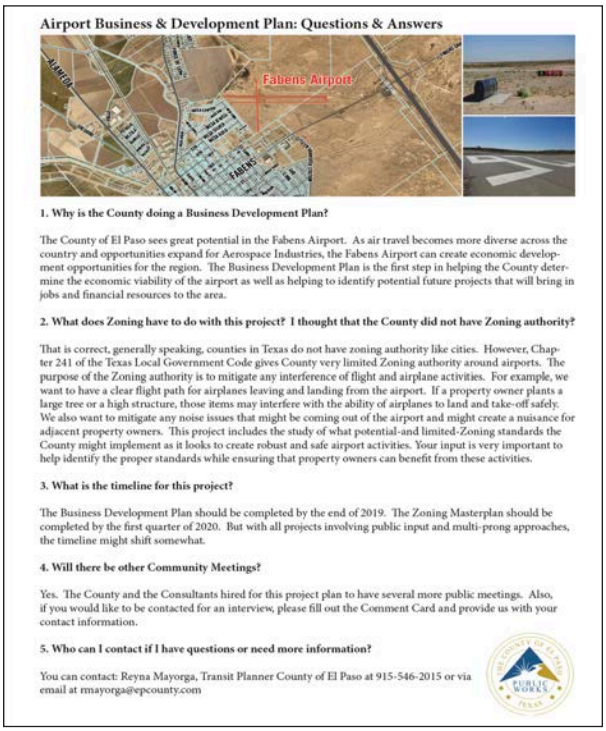
Community Open House for The Fabens Airport

Airport Business & Development Plan

Community Meeting #2 for The Fabens Airport Land Use & Zoning Protection Plan

DATE: Wednesday, November 20, 2019
TIME: Presentation Format, 5:00PM to 6:00PM
WHERE: County of El Paso Warehouse at 1331 Fabens Rd, Fabens, TX. 79838

Fliers announcing the various community meetings were posted in several public areas in Fabens.



Airport Business & Development Plan: Questions & Answers

Fabens Airport

1. Why is the County doing a Business Development Plan?

The County of El Paso sees great potential in the Fabens Airport. As air travel becomes more diverse across the country and opportunities expand for Aerospace Industries, the Fabens Airport can create economic development opportunities for the region. The Business Development Plan is the first step in helping the County determine the economic viability of the airport as well as helping to identify potential future projects that will bring in jobs and financial resources to the area.

2. What does Zoning have to do with this project? I thought that the County did not have Zoning authority?

That is correct, generally speaking, counties in Texas do not have zoning authority like cities. However, Chapter 241 of the Texas Local Government Code gives County very limited Zoning authority around airports. The purpose of the Zoning authority is to mitigate any interference of flight and airplane activities. For example, we want to have a clear flight path for airplanes leaving and landing from the airport. If a property owner plants a large tree or a high structure, those items may interfere with the ability of airplanes to land and take-off safely. We also want to mitigate any noise issues that might be coming out of the airport and might create a nuisance for adjacent property owners. This project includes the study of what potential-and limited-Zoning standards the County might implement as it looks to create robust and safe airport activities. Your input is very important to help identify the proper standards while ensuring that property owners can benefit from these activities.

3. What is the timeline for this project?

The Business Development Plan should be completed by the end of 2019. The Zoning Masterplan should be completed by the first quarter of 2020. But with all projects involving public input and multi-prong approaches, the timeline might shift somewhat.

4. Will there be other Community Meetings?

Yes. The County and the Consultants hired for this project plan to have several more public meetings. Also, if you would like to be contacted for an interview, please fill out the Comment Card and provide us with your contact information.

5. Who can I contact if I have questions or need more information?

You can contact: Reyna Mayorga, Transit Planner County of El Paso at 915-546-2015 or via email at rmayorga@epcounty.com

Plan de Desarrollo del Aeropuerto: Preguntas y Respuestas

Fabens Airport

1. ¿Por qué el Condado está haciendo un plan de desarrollo comercial?

El Condado de El Paso ve un gran potencial en el Aeropuerto Fabens. A medida que los viajes aéreos se vuelven más diversos en todo el país y las oportunidades se expanden para las Industrias Aeroespaciales, el Aeropuerto Fabens puede crear oportunidades de desarrollo económico para la región. El Plan de Desarrollo de Negocios es el primer paso para ayudar al Condado a determinar la viabilidad económica del aeropuerto, así como a identificar posibles proyectos futuros que traerán empleos y recursos financieros al área.

2. ¿Qué tiene que ver la zonificación con este proyecto? ¿Pensé que el condado no tenía autoridad de zonificación?

Eso es correcto, en general, los condados en Texas no tienen autoridad de zonificación como las ciudades. Sin embargo, el Capítulo 241 del Código de Gobierno Local de Texas otorga al Condado una autoridad de zonificación muy limitada alrededor de los aeropuertos. El propósito de la autoridad de zonificación es mitigar cualquier interferencia de las actividades de vuelo y avión. Por ejemplo, queremos tener una ruta de vuelo despejada para los aviones que salen y aterrizan desde el aeropuerto. Si el dueño de una propiedad planta un árbol grande o una estructura alta, esos artículos pueden interferir con la capacidad de los aviones para aterrizar y despegar de manera segura. También queremos mitigar cualquier problema de ruido que pueda estar saliendo del aeropuerto y pueda crear una molestia para los propietarios de propiedades adyacentes. Este proyecto incluye el estudio de los estándares de zonificación potencial y limitada que el Condado podría implementar a medida que busca crear actividades aeroportuarias sólidas y seguras. Su aporte es muy importante para ayudar a identificar los estándares adecuados al tiempo que garantiza que los propietarios puedan beneficiarse de estas actividades.

3. ¿Cuál es el cronograma para este proyecto?

El Plan de Desarrollo de Negocios debería completarse para fines de 2019. El Plan Maestro de Zonificación debería completarse para el primer trimestre de 2020. Pero con todos los proyectos que involucran aportes del público y enfoques de múltiples puntos, la línea de tiempo podría cambiar un poco.

4. ¿Habrá otras reuniones comunitarias?

Sí. El Condado y los Consultores contratados para este proyecto planean tener varias reuniones públicas más. Además, si desea ser contactado para una entrevista, complete la Tarjeta de comentarios y bríndenos su información de contacto.

5. ¿A quién puedo contactar si tengo preguntas o necesito más información?

Puede contactar a: Reyna Mayorga, planificador de tránsito del condado de El Paso al 915-546-2015 o por correo electrónico a rmayorga@epcounty.com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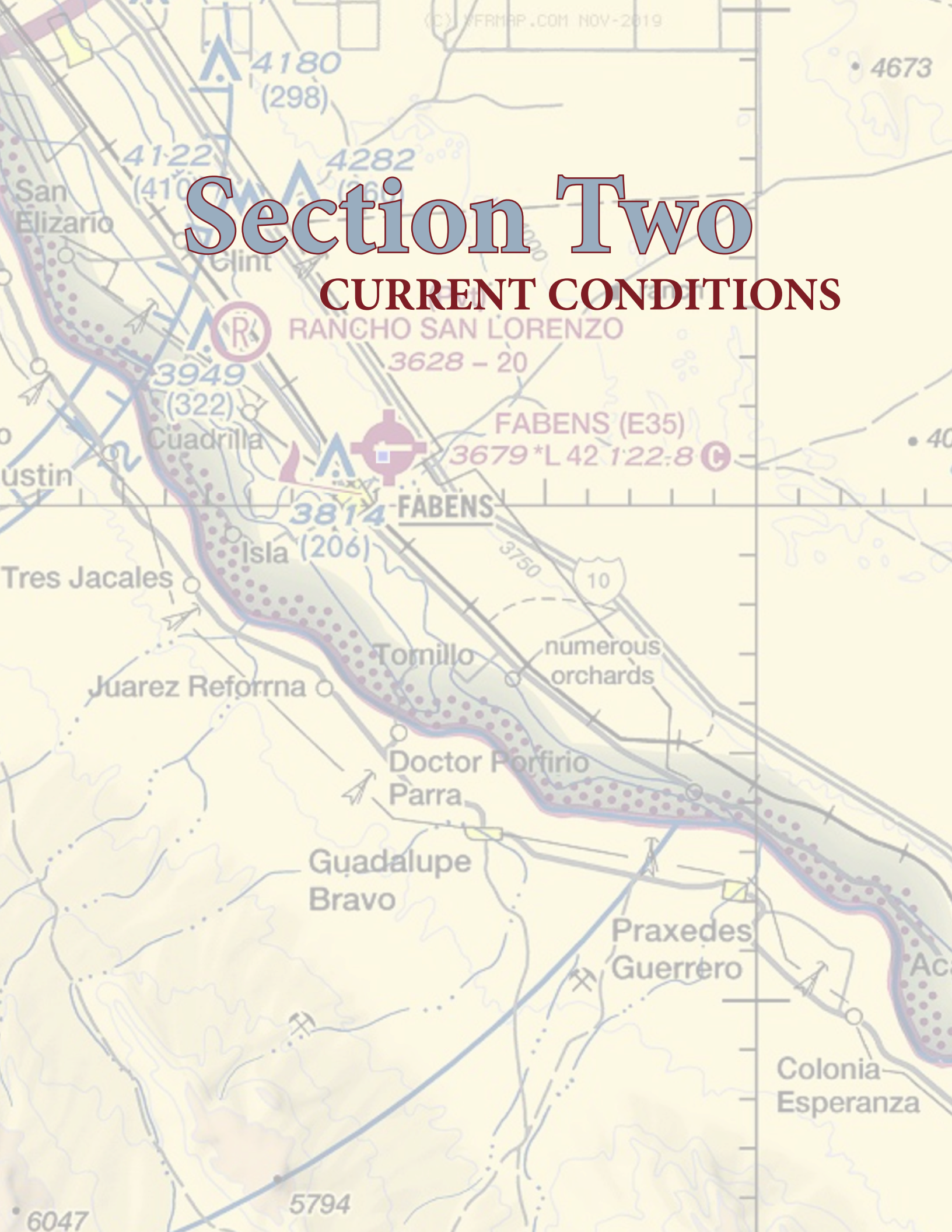


Section Two

CURRENT CONDITIONS

SECTION TWO:
CURRENT CONDITIONS

CURRENT CONDITIONS

The current conditions of the Fabens Airport and surrounding area, are outlined in this section of the plan. It is important to understand the existing conditions to formulate policies and procedures arising from the recommendations in this masterplan.

FABENS AIRPORT

The Fabens Airport is a General Aviation Utility Airport located in Fabens. The utility runway can accommodate mostly single engine propeller airplanes with a maximum gross weight of 12,500 pounds on average. The airport employs a visual approach with no precision instruments available for landing. This means that a pilot circles the airport and has visual contact with the runway before landing.

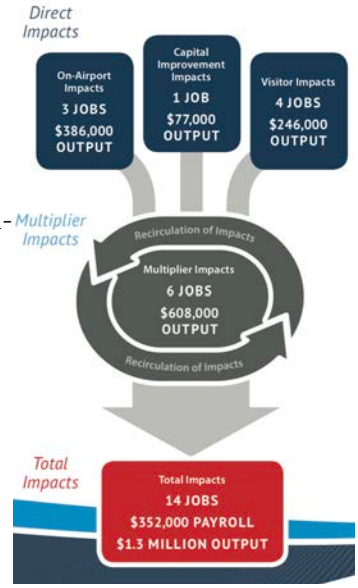
The airport is owned by El Paso County and operated by Olivas Aviation and is accessed via Fabens Road (State Highway 793). Airport facilities include one runway, a 4,200-foot primary runway (8/26). The airport is managed by a Fixed- Based Operator (FBO) attached to a single hanger accessed by semi-paved driveways.

There are two asphalt parking aprons for tying down aircraft.

The hanger is currently occupied by UTEP's Center for Space Exploration and Technology Research. There is an area near the airport hangar consisting of a series of small portable buildings also occupied by UTEP.

Texas Aviation Economic Impact Study:

This infograph on the right illustrates the economic development impact associated with the Airport. The study was conducted in 2018 by the Texas Department of Transportation.



SECTION TWO:
CURRENT CONDITIONS

There is no clear signage guiding visitors to the airport whose entrance is accessed via Fabens Road.

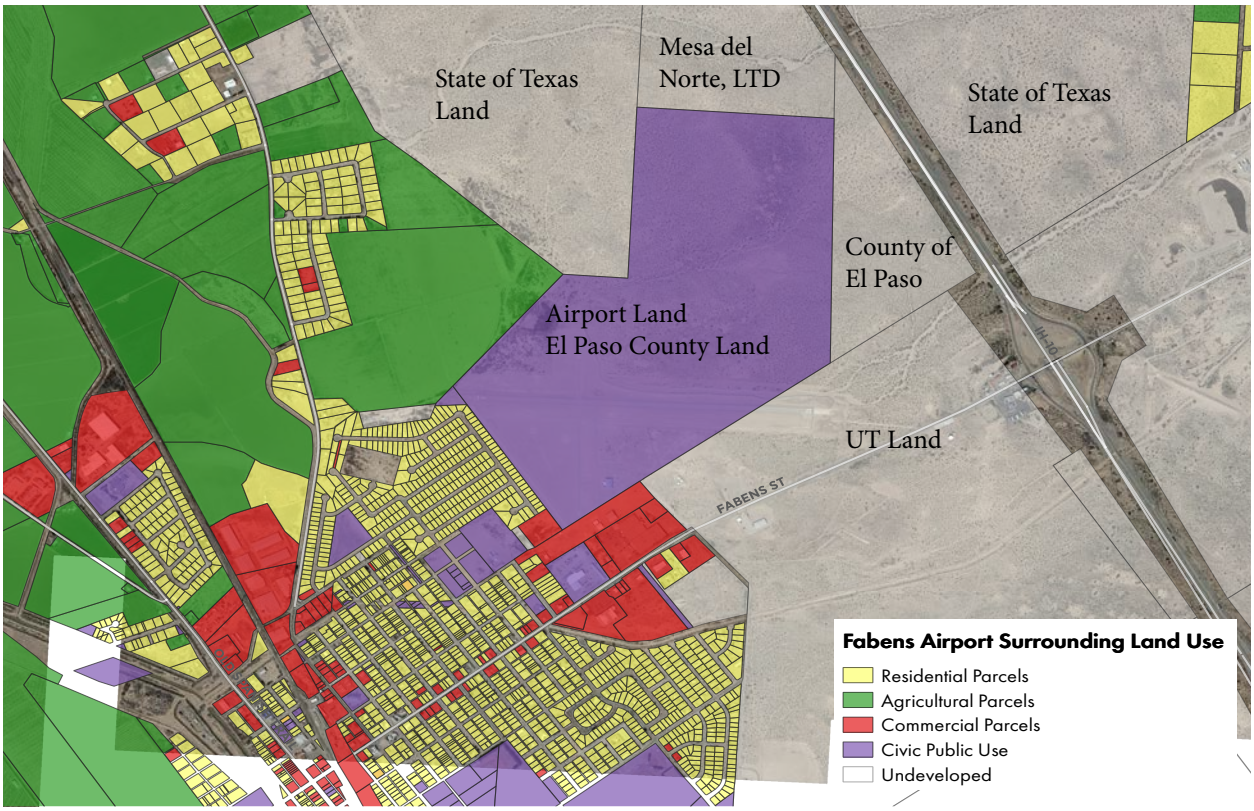
FBO attached to hangar in the back.

Hangar utilized by UTEP.

CURRENT CONDITIONS

LAND USE

The Fabens Airport is situated on the north end of Fabens. It is bounded by undeveloped property on the north, Interstate 10 on the east, Fabens Road, commercial properties and residential on the south, and residential and agricultural land on the west. Fabens Road is composed of small clusters of businesses at the intersection of I-10 and Fabens Road. This commercial activity is mostly geared towards travelers and commercial truck activities.



In terms of land uses, the map above illustrates the various land uses surrounding the airport. The two most prominent land uses include residential in yellow and agricultural land depicted in green. Fabens Road is also comprised of low density uses mostly neighborhood commercial such as franchise restaurants and local shops with some single family residential scattered throughout. The County's Road and Bridge facility is also located on Fabens Road near the airport.

The Mesa del Norte subdivision is the most prominent residential land use immediately abutting the airport property on the west. Mesa del Norte is comprised of single family homes on individual lots. These homes are a mix of cinder block homes, mobile homes, and some made of various materials. The subdivision has some infrastructure with paved streets but no curbs, gutters, or sidewalks.

SECTION TWO:
CURRENT CONDITIONS

Picture shows proximity of the residential areas to the west of the airport property as well as the agricultural land immediately adjacent to the airport. This zoning plan and zoning court order will assist to mitigate any incompatible land uses that may exist now and minimize conflicts in the future.

CURRENT CONDITIONS

Demographics

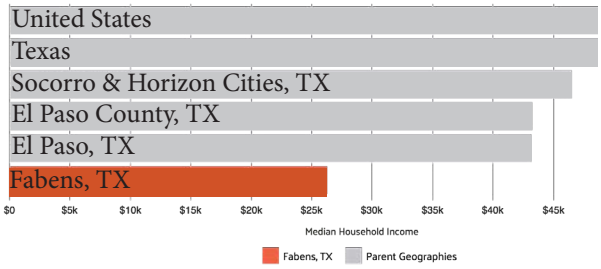
The Fabens Airport is located in an unincorporated area in east El Paso County. In 2017, Fabens had a population of 6,200 people. Fabens's population declined by just under 1,000 people between 2016 and 2017 from 7,168 to 6,203, representing a decline of 13.5%.

Fabens has a median age of 34 and a median household income of $26,289. Hispanics or Latino make up 96.6% of the population. The median property value in Fabens is $57,900 with a homeownership rate of 63.4%.

The following data graphs and tables offer a synopsis of various demographic data for Fabens. Some tables offer a comparison across the United States, Texas, and El Paso County.

Wages

The median annual household income is approximately $26,000, which is considerably less than the average of approximately $60,000 for the United States. The chart below gives a comparison across Texas and the United States.



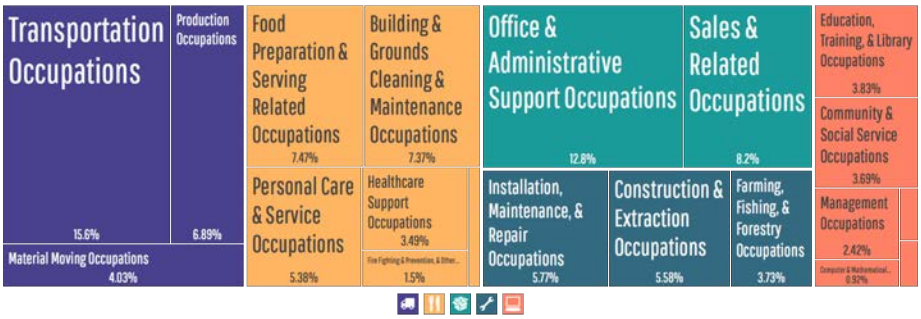
Poverty Rates

In Fabens, 38.4% of the population live below the poverty line, a number that is higher than the national average of 13.4%. This accounts for 2,380 out of the approximately 6,000 residents. The largest group living in poverty are Females ages 6 to 11 followed by Females in the 25 to 44 year-old range.

SECTION TWO:
CURRENT CONDITIONS

Employment

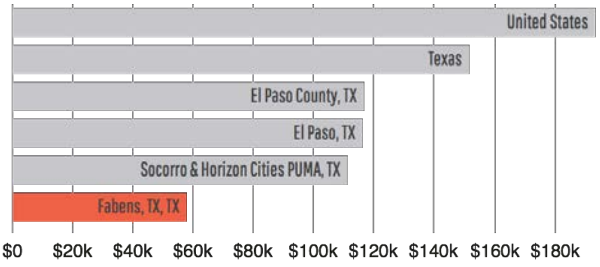
According to the U.S. Census Bureau, from 2016 to 2017, employment declined at a rate of -18.2%, from 2,500 to 2,000. This represents a 500 job loss. Transportation Occupations represent the most common job groups in Fabens, followed by Office & Administrative Support Occupations, and Sales & Related Occupations. The chart illustrates breakdown of the primary jobs held by residents of Fabens.



The employment areas for people working in Fabens are shown below. Educational Services (297 people) and Retail Trade (296 people) make up the two highest employment sectors. The chart below illustrates the share of the primary industries for residents of Fabens. However, some of these residents may live in Fabens and work somewhere else.

Property Values

The median property value in Fabens declined from $61,600 in 2017 to $57,900 in 2018. The chart to the right illustrates the property values in Fabens as compared to the U.S. and neighboring geographies.



Data Source: www.datausa.io and www.census.gov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Section Three

AIRPORT ZONING

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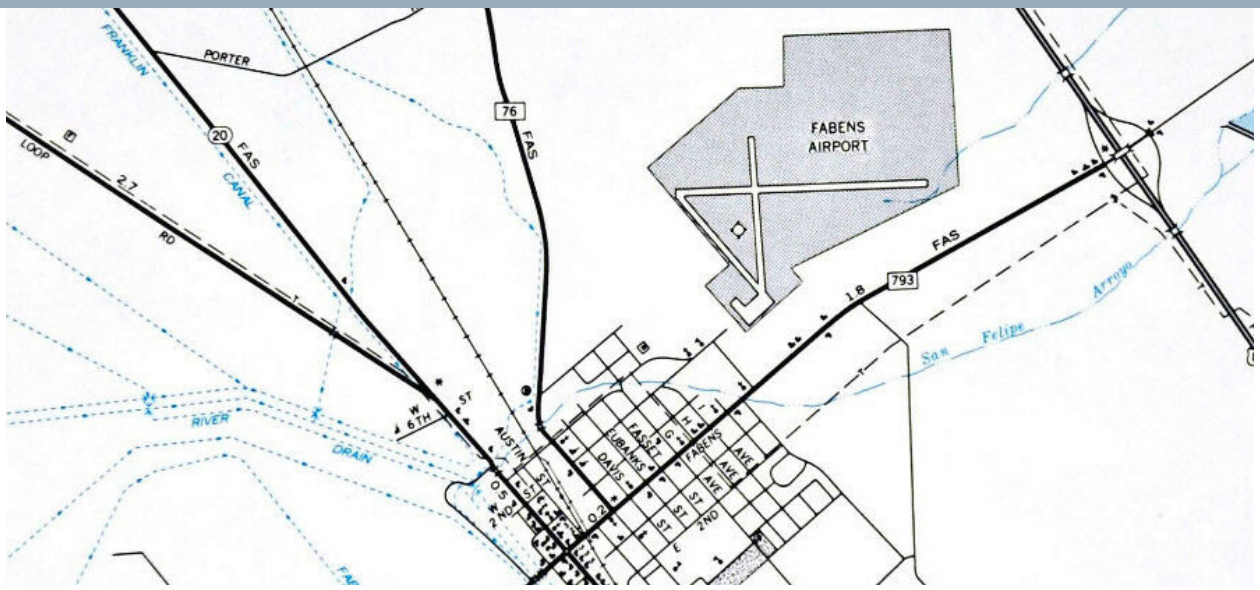
AIRPORT ZONING



AIRPORT ZONING

As the Fabens Airport continues to expand its scope and services and as the County continues to make improvements to the airport facilities, it will be important that land use standards are adopted as a way to ensure compatibility with current and future surrounding properties. The encroachment of incompatible land uses or structures that may affect airport operations will be an issue that the County will have to mitigate as the airport grows. These zoning standards need to protect both the airport and its operations as well as the surrounding property owners and neighbors.

The Fabens Airport directly abuts several land uses that in the future might be areas of concern. These include the residential land uses on the south and southwest of the airport and the farmland to the west and northwest. The County has a responsibility to ensure that the airport operations continue and it has a responsibility for the health, welfare, and general safety of the residents of Fabens. The initiation of this plan and attached zoning regulations, as well as the Airport Business Development Plan, are steps the County has taken to ensure the airport's future vitality and to protect residents living near the airport from future nuisances.

Chapter 241 of the Texas Local Government code or the Airport Zoning Act (AZA), as discussed in prior sections, provides the County a legal and effective tool to control the development of land while mitigating any adverse effects to the airport's airspace and facilities.

Incompatible Development

Not every use directly adjacent to an airport is incompatible. Uses that do not present a danger to aircraft or tall structures that do not impede regular airport operations are considered compatible uses. However, residential uses can be one of the most delicate uses as people living near the airport can experience a high degree of noise associated with aircraft landing and taking-off from the airport. Uses that attract wildlife such as birds can also be incompatible to airport actions.

SECTION THREE:
AIRPORT ZONING

As the airport grows, there is also an opportunity to better manage underutilized parcels of land and vacant buildings. The Texas Department of Transportation's (TxDOT) Airport Compatibility Guide, lists the following Airport Compatible Activities associated with high degrees of compatibility with airport operations that should be encouraged:

- Aerial survey companies
- Air cargo facilities
- Air freight terminals
- Aircraft repair facilities
- Aviation research and testing
- Aviation schools
- Auto parking lots
- Car rental facilities
- Gas stations
- Restaurants
- Hotels and motels
- Office buildings
- Warehousing centers

Recognizing that any proposed zoning regulations can alter the future development of land, this plan seeks to ensure that compatible uses are encouraged and created.

AZA Regulations

The AZA outlines the adoption of airport zoning regulations through two areas. The first is Airport Hazard Area Zoning Regulations which protects and mitigates concerns from both the airport from adjacent properties. The second area is the Airport Compatible Land Use Zoning Regulations, which generally shields property owners from airport activities. The following sections outline the various standards employed when creating each of these two regulations.

SECTION THREE:
AIRPORT ZONING

Airport Hazard Area Zoning Regulations

Chapter 241 of the Texas Local Government Code, states the following as it pertains to Hazard Regulations:

"To prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations."

The airport hazard area zoning regulations may divide airport zones and for each zone:

- Specify the land uses permitted
  Sec. 241.011 (b) (1);

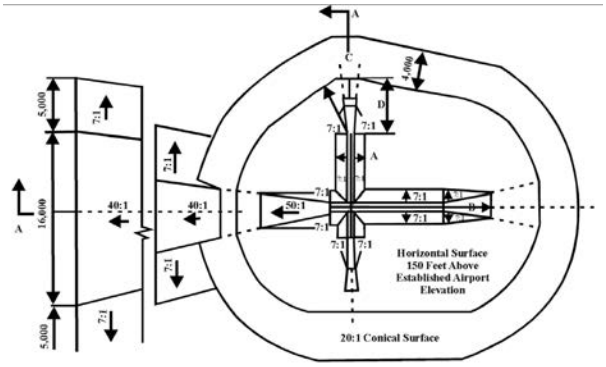
- Regulate the type of structures
  Sec. 241.011 (b) (2);

- Restrict the height of structures and object of natural growth to prevent the creation of an obstruction to flight operations or air navigations
  Sec. 241.011 (b) (3).

Chapter 241 does not specify the manner in which political subdivisions determine the way in which to regulate hazards. However, it one method for determining how to best regulate potential hazards comes from the Federal Aviation Administration (FAA) Federal Aviation Regulations (FAR) 77. The FAA through FAR 77 has determined the maximum heights for structures in the vicinity of an airport before they become obstructions to flight navigation.

The image on the top right helps illustrate how the FAA has determined maximum height structures based on an airport's imaginary surfaces.

Imaginary Surfaces Illustration



Data Source: *APA Planning & Urban Design Standards*

Imaginary Surfaces Defined for Fabens Airport

Imaginary Surfaces consist of various zones based on the FAR Part 77 and according to TXDOT, are the "preferred standards to be used in airport zoning." Each zone consists of all the land lying beneath the projected Approach Surfaces, Transition Surface, Horizontal Surface and Conical Surface.

Approach Zones

Approach Zone for Runway 8/26 is to be established beneath the approach surface at the end of the runway for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two-hundred-fifty (250) feet which coincides with the width of the primary surface at a distance of two-hundred (200) feet beyond each end of the runway, widening thereafter uniformly to a width of one-thousand-two-hundred-fifty (1,250) feet at a horizontal distance of five-thousand (5,000) feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

Transition Zones

Transition zones are to be established beneath the transition surface adjacent to each runway and approach surface as indicated on the hazards map. Transition surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extends at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of approach surfaces and extend until they intersect the horizontal or conical surface.

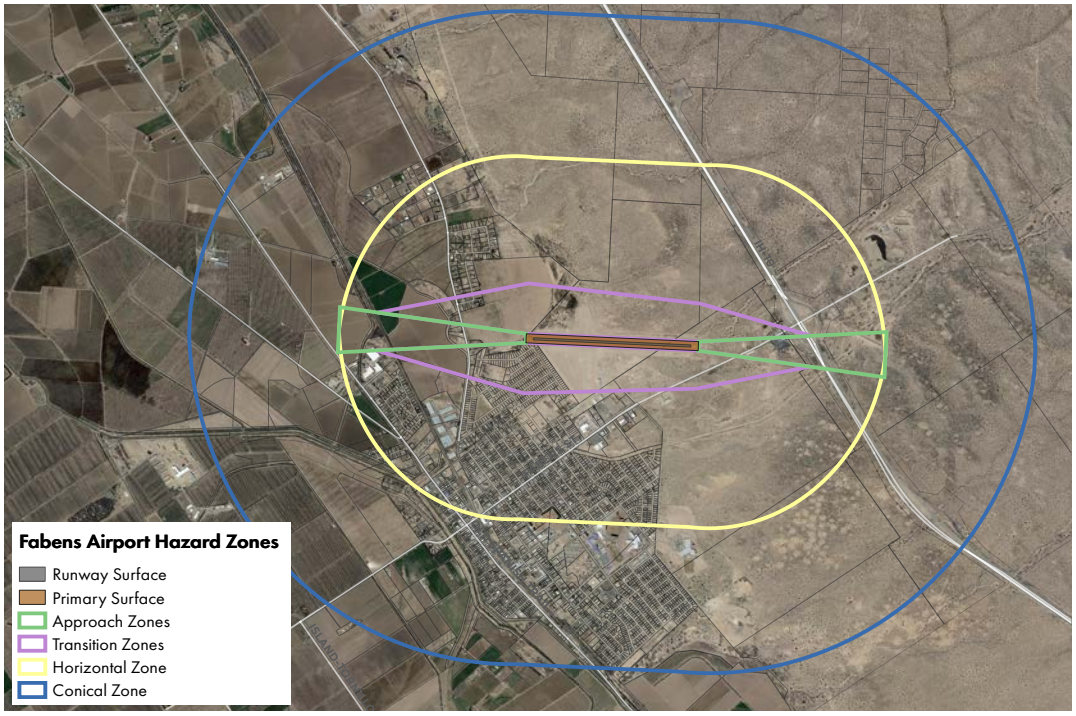
Horizontal Zone

A horizontal zone is to be established beneath the area of a horizontal surface one-hundred-fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five-thousand (5,000) feet radii from the center of each end of the primary surface of Runway 8/26 and connecting the adjacent arcs by lines tangent to those arcs.

Conical Zone

A conical zone is to be established beneath the conical surface which extends upward and outward from the periphery of the Horizontal Surface for a horizontal distance of four-thousand (4,000) feet. The slope of the conical surface is (20) to (1) (five percent (5%)) measured in a vertical plane.

The Fabens Airport Hazard Zones Map below illustrates the various zones described above. This map is part of the court order outlining various hazard zones.

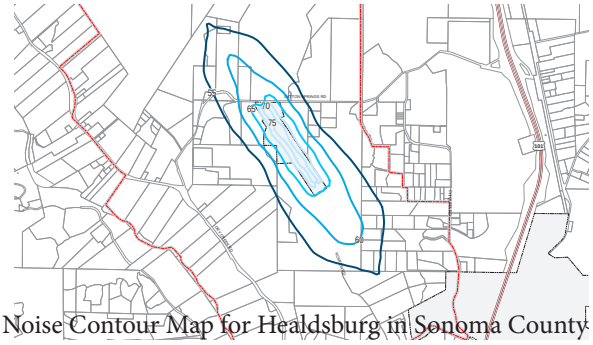


SECTION THREE:
AIRPORT ZONING

Airport Compatible Land Use Zoning Regulations

The AZA does not outline the manner in which to regulate compatible land uses. The TxDOT guide suggests that incompatibility be determined by levels of noise exposure to the airport. As stated in the guide, "Areas closer to a runway are subject to higher levels of noise than those farther away. It is recommended that the areas be broken down into overlay zones based on each area's exposure to noise".

The way to determine the levels of noise is by conducting a noise study as outlined by the FAA in FAR 150. The study will help determine the levels of noise utilizing an Integrated Noise Model, a computer model, and based on the airport activities, types of aircraft associated with the airport, and location of surrounding land uses. The study then helps craft a Noise Exposure Map which provides contours that can guide where development is or is not compatible in relation to levels of noise caused by airport actvities.

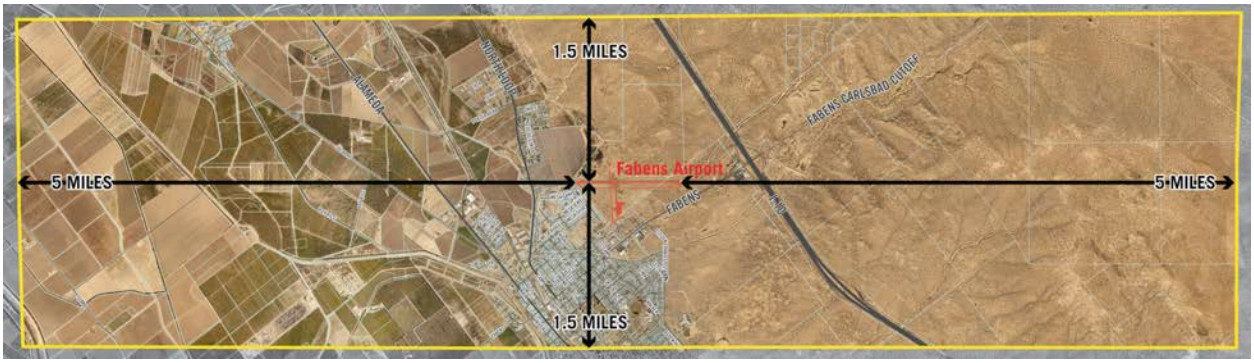


Noise Contour Map for Healdsburg in Sonoma County

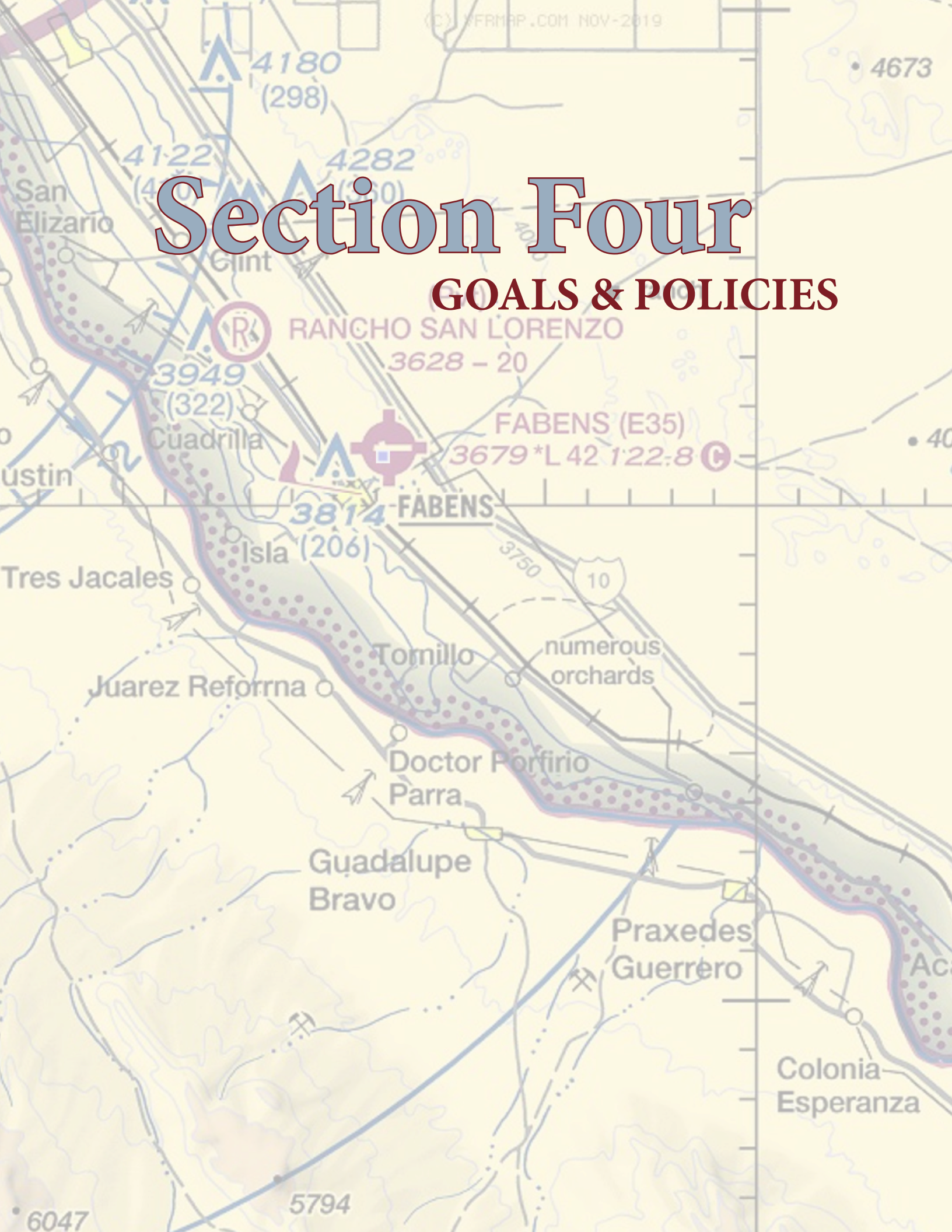
The noise study will produce a map similar to the one shown above. The contours are based on sound measures expressed in units of A-weighted decibels (dBA).

Recognizing that sound produced by planes is greater near the airport and runways, the contour map helps determine where it is applicable to separate land uses that may not be compatible with each other. The most obvious incompatible use near an airport is residential land uses.

This masterplan and court order do not contain a noise exposure map. However, it is recommended that as air traffic activity increases in the future that the County commission such a study.



Controlled Compatible Land Use Area is a defined area where compatible land use zoning regulations can be applied. This area as defined in Chapter 241 extends 5 miles from the end of each runway and 1.5 miles from the centerline of the runway. It is important to note that these are the maximum areas that can be zoned but not the areas that must be zoned. This map shows 1.5 miles from the centerline of the primary runway and 5 miles from the end of the same runway.



Section Four

GOALS & POLICIES

GOALS & POLICIES

The following section offers a series of Goals & Policies that the County may want to pursue to further enhance the land use and zoning items associated with this masterplan and to ensure the health, safety, and general welfare of Fabens residents. Furthermore, these policies aim to increase the vitality and efficacy of the Fabens airport.

GOAL 1: Protect existing residents from future hazards associated with airport operations.

Policy 1.1. Consider purchasing land immediately abutting the airport on the west side and create a buffer zone between the airport and existing residences.

Policy 1.2. Consider purchasing tracts of land for potential airport expansion.

GOAL 2: Continue to enhance airport operations to ensure implementation of Zoning Plan and Airport Business Development Plan. This can be done either by having county staff manage the operations or continuing to hire a Fixed Base Operator.

Policy 2.1. Establish an airport department in the long run. In the short-run consider hiring an airport coordinator position to ensure implementation of both this zoning plan and the Airport Business Development Plan. Currently, these activities are being managed by the County's Planning & Development Department.

Policy 2.2. The airport grounds should be beautified with landscaping, interior signage, and a more pronounced and visually appealing front entrance.

Policy 2.3. An updated land survey should be created to include any new improvements.

Policy 2.4. The County Attorney's office should retain the services of a land use attorney familiar with airport operations to provide legal advice on matters pertaining to the airport.

Policy 2.5. As airport activity increases, the airport should conduct a Noise Hazard Study.

GOAL 3: Ensure adequate implementation of Zoning Board of Adjustment (ZBA) as outlined in Section 241.032 of the Texas Local Government Code

Policy 3.1. Each member of Commissioners Court should appoint one member to the Zoning Board of Adjustment.

Policy 3.2. The members appointed do not have to come from each commissioner's respective district, but the Court should seek to appoint at a minimum one resident residing in Fabens, Texas.

Policy 3.3. Members appointed to the ZBA should have experience in zoning, land use, or real estate-related fields.

Appendix A

Zoning Protection Order

EL PASO COUNTY COMMISSIONERS COURT ORDER

FABENS AIRPORT ZONING PROTECTION ORDER

RELATED TO AIRPORT HAZARD ZONING AND AIRPORT LAND USE COMPATIBILITY ZONING SURROUNDING THE FABENS AIRPORT (E35)

WHEREAS, Fabens Airport (E35) is located within the territorial limits of El Paso County, Texas; and

WHEREAS, Tex. Local Gov't. Code Ann., §241.011 (a) provides that to prevent the creation of an airport hazard, a political subdivision in which an airport hazard area is located may adopt, administer, and enforce, under its police power, airport hazard area zoning regulations for the airport hazard area; and

WHEREAS, Tex. Local Gov't. Code Ann., §241.012 (a) allows a county to adopt, administer, and enforce, under its police power, airport compatible land use zoning regulations for the part of a controlled compatible land use area located within the political subdivision; and

WHEREAS, The Fabens Airport (E35) is used in the interest of the public and to the benefit of El Paso County, "the County," and fulfills an essential community purpose; and

WHEREAS, The creation, establishment, or construction of airport hazards or incompatible land uses have the potential of being a public nuisance and may harm those served by the County; and

WHEREAS, the El Paso County Commissioners Court, "Court," finds that preventing the creation, establishment, or construction of airport hazards or incompatible land uses is necessary in the interest of the public health, safety and general welfare of the County and residents; and

WHEREAS, the Court also finds that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF EL PASO COUNTY, TEXAS that the Fabens Airport Zoning Protection Order is hereby adopted as follows:

Article 1
Short Title

This Order shall be known and may be cited as the "Fabens Airport Zoning Protection Order."

Article 2
Purpose

A. Authority
The Order is adopted pursuant to the authority conferred by the Texas Airport Zoning Act, Texas Local Government Code Chapter 241.

B. Purpose
The Court has adopted the Order to exercise its authority to impose reasonable regulations regarding airport hazards and airport compatible land uses surrounding the Fabens Airport in East El Paso County. The Order is adopted to protect the public health, safety and welfare of people in El Paso County and users of the Fabens Airport. Additionally, these regulations are intended to protect the utility of the Fabens Airport and protect the public investment therein by preventing the creation, establishment, or construction of airport hazards or incompatible land uses which may affect the existing and future approach to the airport or otherwise interfere with landing, takeoff and maneuvering of aircraft, while, also protecting persons and property located near the various hazard zones established by this Order.

C. Incorporation of Maps
The Airport Hazard Zoning Maps prepared by Atkins Global and Gallinar Planning & Development, LLC acting as the County's consultants, are hereby incorporated by reference and made a part hereof for all purposes—reference Exhibit "A." Any further revision to the maps made by the County shall be done in accordance with the authority described under the Texas Airport Zoning Act.

Article 3
Definitions

Airport – Fabens (E35) Airport, El Paso County, Texas.

Airport Elevation - The established elevation of the highest point on the landing area measured in feet from mean sea level.

Airport Hazard - Any structure or tree or use of land which obstructs the air space required for the flights of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight at an airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; hazardous, interfering with or obstructing such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

Airport Hazard Area - Any area of land or water upon which an airport hazard might be established if not prevented as provided in this Ordinance.

Approach Surface - A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Article 4 of this Order.

Approach, transitional, horizontal, and conical zones – These zones are established in Article 4 of this order.

Conical Surface – A surface extending outward and upward from the periphery of the horizontal surface

at a slope of 20 feet vertically to 1 foot horizontally for a horizontal distance of 4,000 feet.

Height - For the purpose of determining the height limits in all zones set forth in this Order and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

Horizontal Surface - A horizontal plane 150 feet above the established airport elevation.

Nonconforming Land Use - Any use of land which is inconsistent with the provisions of these regulations and which is existing as of the effective date of these regulations.

Obstruction - Any structure, growth, or other object, including a mobile object which exceeds a height restriction as set forth in Article 4 of this Order.

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

Primary Surface – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two-hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is two-hundred-fifty (250) feet for utility runways having only visual approaches.

Residential density – Means the number of dwelling units per acre based on the total number of dwelling units within a proposed or existing subdivision and the total acreage of the proposed or existing subdivision.

Runway - A defined area on an airport prepared for landing and take-off of aircraft along its length. Structure - Any object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, crane, smokestacks, earth formation, and overhead transmission lines.

Transitional Surface – These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five-thousand (5,000) feet measured horizontally from the edge of the approach surface and at ninety (90) degree angles to the extended runway centerline.

Tree – Any object of natural growth.

Waterway – An inland navigable body of water, including large lakes and areas that may attract feral fowl and other fauna. For the purposes of this Order, this does not include activities associated with stormwater management, water utility provider activity or bona fide agricultural uses, such as irrigation of crops.

Article 4
Airport Hazard Zones

A. Airport Hazard Zones are hereby established to carry out the provisions of this order. Each zone consists of all the land lying beneath the projected Approach Surfaces, Transition Surface, Horizontal Surface and Conical Surface. The surfaces are constructed in accordance with Federal Aviation Regulations Part 77 and depicted in "Exhibit A" attached to this order. A map of these shall be kept on file with the Planning & Development Department and may be amended, in accordance with this Order and the Texas Airport Zoning Act, as determined by the Court.

a. Approach Zones

i. Approach Zone Runway 8 is established beneath the approach surface at the end of runway 8 for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two-hundred-fifty (250) feet which coincides with the width of the primary surface at a distance of two-hundred (200) feet beyond each end of the runway, widening thereafter uniformly to a width of one-thousand-two-hundred-fifty (1,250) feet at a horizontal distance of five-thousand (5,000) feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

ii. Approach Zone Runway 26 is established beneath the approach surface at the end of runway 8 for visual landings and takeoffs. The inner edge of the approach zone shall have a width of two-hundred-fifty (250) feet which coincides with the width of the primary surface at a distance of two-hundred (200) feet beyond each end of the runway, widening thereafter uniformly to a width of one-thousand-two-hundred-fifty (1,250) feet at a horizontal distance of five-thousand (5,000) feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

b. Transition Zones
Transition zones are hereby established beneath the transition surface adjacent to each runway and approach surface as indicated on the zoning map. Transition surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of approach surfaces and extend until they intersect the horizontal or conical surface.

c. Horizontal Zone.
A horizontal zone is hereby established beneath the area of a horizontal surface one-hundred- fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five-thousand (5,000) feet radii from the center of each end of the primary surface of Runway 8-26 and connecting the adjacent arcs by lines tangent to those arcs.

d. Conical Zone
A conical zone is hereby established beneath the conical surface which extends upward and outward from the periphery of the Horizontal Surface for a horizontal distance of four-thousand (4,000) feet. The slope of the conical surface is twenty to one (five (5) percent) measured in a vertical plane.

B. Height Regulations in Airport Hazard Zones
No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this order to a height in excess of the established surface in each respective zone. Height restrictions are hereby established as follows:

a. Approach Zone Runway 8 – one (1) foot in height for each twenty (20) feet in horizontal distance beginning at a point two-hundred (200) feet from and at the elevation of the end of the runway and extending to a point five-thousand (5,000) feet from the end of the runway.

b. Approach Zone Runway 26 – one (1) foot in height for each twenty (20) feet in horizontal distance beginning at a point two-hundred (200) feet from and at the elevation of the end of the runway and extending to a point five-thousand (5,000) feet from the end of the runway.

c. Transition Zones – One (1) foot in height for every seven (7) feet in horizontal distance beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one-hundred-fifty (150) feet above the airport elevation. In addition to the foregoing, there are established height limits of one (1) foot in height for every seven (7) feet in horizontal distance beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

d. Horizontal Zone – One-hundred-fifty (150) feet above the airport elevation for the entire horizontal area beneath the established horizontal surface.

e. Conical Zone - One (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal zone and one-hundred-fifty (150) feet above the airport elevation and extending to a height of three-hundred-fifty (350) feet above the airport elevation.

C. Use Regulations in Airport Hazard Zones.

a. Generally Prohibited Uses are those within any zone established by this Order include any such use that creates electrical interference with navigational signals or radio communication between the airport and aircraft, makes it difficult for pilots to distinguish between the airport and aircraft, results in glare in the eyes of the pilots using the airport, impairs visibility in the vicinity of the airport, creates bird strike hazards, or otherwise endangers or interferes with the landing, taking off, or maneuvering of aircraft intending to use the airport.

b. Use Regulations in Airport Hazard Zones

i. Approach Zones
This area encompasses areas overflown at low altitudes during landing and takeoff. Residential uses are restricted to a maximum residential density of 2 units per acre, except as provided in Article 5 of this order. The following nonresidential uses are prohibited:

1. Places of assembly where occupancy exceeds 250 persons per acre;
2. Theatres, Auditoriums, Stadiums;

3. Dumps or landfills, other than those consisting entirely of earth & rock;
4. Waterways that create a bird hazard, not including those associated with stormwater management, water utility provider activity or bona fide agricultural activity.

ii. Transition Zones.
This area encompasses areas overflown at low altitudes during normal airport operations. Residential uses are restricted to a maximum residential density of 1 unit per every 2.5 acres, except as provided in Article 5 of this order. The following nonresidential uses are prohibited:

1. Places of assembly where occupancy exceeds 100 persons per acre;
2. Theatres, Auditoriums, Stadiums;
3. Schools;
4. Childcare facilities;
5. Hospitals and nursing homes;
6. Dumps or landfills, other than those consisting entirely of earth & rock;
7. Waterways that create a bird hazard, not including those associated with stormwater management or bona fide agricultural activity.

Article 5
Nonconforming Uses and Structures

A. Applicability
This order shall not be construed to require:

a. Changes in nonconforming land use existing on the date of the adoption of the regulations;

b. The removal, lowering, or other change of a structure that does not conform to the regulations on the date of their adoption, including all phases or elements of a multiphase structure, regardless of whether actual construction has commenced, that received a determination of no hazard by the Federal Aviation Administration under 14 C.F.R., Part 77, before the regulations were adopted;

c. The removal, lowering, or other change of an object of natural growth that does not conform to the regulations on the date of their adoption; or

d. Any other interference in the continuation of a use that does not conform to the regulations on the date of their adoption.

B. Nonconforming Lots
A single-family dwelling may be erected on a legally subdivided lot irrespective of any density requirements for the zone in which it is located, if such lot was separately owned at the time when any zoning restrictions as to density first became effective.

C. Marking & Lighting
Notwithstanding the preceding provision of the Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Court to indicate to the operators of aircraft in the vicinity of the Airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of El Paso County.

D. Abandonment

a. A nonconforming use is deemed abandoned and the right to operate a nonconforming use shall terminate immediately if any of the following occur:

   i. The use of the property present at the date of adoption of these regulations is changed from a nonconforming use to a conforming use, or to another nonconforming use;

   ii. The non-use or non-operation of the nonconforming use, or the vacancy of a portion or all of the structure used for the nonconforming use of the property for a continuous period of one (1) year or more;

   iii. A portion or all of the structure used for the nonconforming use is damaged or destroyed by the intentional act of the owner or his agent;

   iv. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if any portion of the structure in which the nonconforming use is located is dilapidated, substandard, or is not maintained in a suitable condition for occupancy during a continuous period of one hundred twenty days.

b. A nonconforming structure is deemed abandoned and the right to operate a nonconforming building shall terminate immediately if any of the following occur:

   i. The non-use or non-operation of a use, or the vacancy of a portion or all of the structure for a continuous period of one hundred twenty days or more;

   ii. A portion or all of the structure used for the nonconforming use is damaged or destroyed by the intentional act of the owner or his agent;

   iii. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming building is dilapidated, substandard, or is not maintained in a suitable condition for occupancy during a continuous period of one (1) year.

Article 6
Permits

A. When Required

Except as provided in part C of this article, a permit shall be required prior to any of the following:

a. Construction of a new permanent structure within any zone established by this order;

b. Placement of a temporary structure within any zone established by this order;

c. Substantial change or structural repair or alteration to an existing structure within any zone established by this order;

d. Establishment of a new use within any zone established by this order; or

e. Any substantial change to an existing use within any zone established by this order.

f. Replacement, reconstruction, substantial change or repair of a nonconforming structure.

Each application for a permit shall be submitted on the approved form on file with the County Planning & Development Department, "Department," and shall be of sufficient detail to provide for an administrative determination to be made whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Order shall be granted unless a variance has been approved in accordance with Article 6, Par. (D).

B. Nonconforming Uses and Structures
A permit for a nonconforming structure may not allow:

a. A nonconforming structure or object of natural growth to become higher than it was at the time of the adoption of the airport zoning regulations relating to the structure or object of natural growth or at the time of the application for the permit; or

b. A nonconforming structure, object of natural growth, or use to become a greater hazard to air navigation than it was at the time of the adoption of the airport zoning regulations relating to the structure, object of natural growth, or use or at the time of the application for the permit.

C. Exemptions to Permit Requirements.

a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than fifty (50) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four-thousand two-hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than fifty (50) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than fifty (50) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

D. Variance.
A person who desires to erect or increase the height of a structure, permit the growth of an object of natural growth, or otherwise use property in violation of an airport zoning regulation, may apply to the Board of Adjustment, "Board," for a variance from the regulation.

a. The Board shall allow a variance from an airport zoning regulation if:

i. A literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and

ii. The granting of the relief would:

1. Result in substantial justice being done;
2. Not be contrary to the public interest; and
3. Be in accordance with the spirit of the regulation and this chapter.

b. The Board may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this chapter.

Article 7
Enforcement

A. In accordance with Tex. Local Gov't. Code Ann., §241.031, The Court shall designate the County Planning & Development Department, "Department," in Public Works to administer all applicable provisions of this Order. Applications for permits shall be made to the Department upon a form published for that purpose. Applications required by this Order to be submitted to the Department shall be promptly considered and granted or denied. Applications for variances shall be made to the Board of Adjustment by first filing said application for variance with the Department who shall forthwith transmit said application to the Board of Adjustment for determination.

B. The Court may institute in any Court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Order or of any order or ruling made in connection with its administration or enforcement including, but not limited to, an action for injunctive relief as provided by the Airport Zoning Act, Tex. Local Gov't. Code Ann., §241.044.

Article 8
Airport Zoning Commission

A. The role of the Airport Zoning Commission shall be to make preliminary reports, solicit public input via public hearings and present the Court with a final report for consideration before the adoption of any zoning regulation.

B. The Commissioners Court appoints the following office holders, as members of the Airport Zoning Commission:

a. The El Paso County Judge
b. County Commissioner, Precinct One
c. County Commissioner, Precinct Two
d. County Commissioner, Precinct Three
e. County Commissioner, Precinct Four

C. Airport Zoning Commissioners' terms shall run concurrently with their respective terms of office with El Paso County. If a County Commissioner, or the County Judge, leaves his or her elected County office for any reason, he or she also leaves office as Airport Zoning Commissioner, and the new County Commissioner, or County Judge, shall be automatically appointed as an airport-zoning commissioner by operation of law upon taking County office.

Article 9
Board of Adjustment

A. The Fabens Airport Zoning Board of Adjustment, "Board," is hereby established. The Board shall consist of five (5) members to be appointed for terms of two years. Each member shall be appointed by a member of the Court. The Court may remove a board member for cause on a

written charge after a public hearing at the request of the appointing member of the Court. A vacancy on the Board shall be filled for the unexpired term.

B. The Board shall have and exercise the following powers:

   a. Hear and decide an appeal, as provided by Section 241.036, from an order, requirement, decision, or determination made by the administrative agency in the enforcement of an airport zoning regulation;

   b. Hear and decide special exceptions to the terms of this order when the regulation requires the board to do so; and

   c. Hear and decide specific variances under Article 6 of this order.

C. The Board shall adopt rules for its governance and procedure in harmony with the provisions of this Order and subject to the regulations of the Texas Open Meetings Act (Texas Government Code Chapter 551). The Director of the Department shall serve as the Executive Secretary of the Board. Meetings of the Board shall be held at the call of the Chair and at such times as the Board may determine. The Chair, or in her/his absence, the acting Chair may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the County Clerk of El Paso County, Texas, and shall be a public record.

D. The Board shall make written findings of fact and conclusions of law stating the facts upon which it relied when making its legal conclusions in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Order.

E. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Court, or the Department, or to decide in favor of the applicant on any matter upon which it is required to pass under this Order, or to effect any variation in this Order as provided in the Tex. Local Gov't. Code, §241.032(d).

Article 10
Appeals

Any person aggrieved, or any taxpayer affected, by any decision of the administrative agency made in its administration of an airport zoning regulation may appeal to the board of adjustment, as provided by the Airport Zoning Act, Tex. Local Gov't. Code, §241.036. For purposes of this order appeals must be filed on or before thirty (30) days after the final decision of the administrative agency is made.

Article 11
Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to a court of competent jurisdiction, as provided by the Airport Zoning Act, Tex. Local Gov't. Code, §241.041

Article 12
Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Order and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail as provided by the Airport Zoning Act, Tex. Local Gov't. Code Ann., §241.901 and Airport Zoning Act, Tex. Local Gov't. Code Ann., §241.902.

Further, adoption of this Order and its applicable rules and regulations does not replace nor circumvent the authority conferred to the County in Texas Local Government Code Chapter 232 relating to County Regulation of Subdivisions.

Article 13
Severability

If any of the provisions of this Order or the application thereof to any person or circumstances is held invalid, such can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.

Article 14
Effective Date

In accordance with Tex. Local Gov't. Code Ann., §241.017, the Fabens Airport Zoning Commission recommended full adoption of this order on the 8th day of September 2020. Further, the Court held a public hearing before considering adoption of the Order on the 8th day of September 2020 and posted notice of the public hearing in a paper of general circulation beginning on Sunday, August 23, 2020.

The rules and regulations associated are hereby adopted and ordered by the El Paso County Commissioners Court on this 8th day of September 2020. The Order shall be in full force and effect beginning on October 1, 2020.

_____

Hon. Ricardo A. Samaniego
El Paso County Judge

Appendix B

Maps

Exhibit 1: Hazard Zones Map

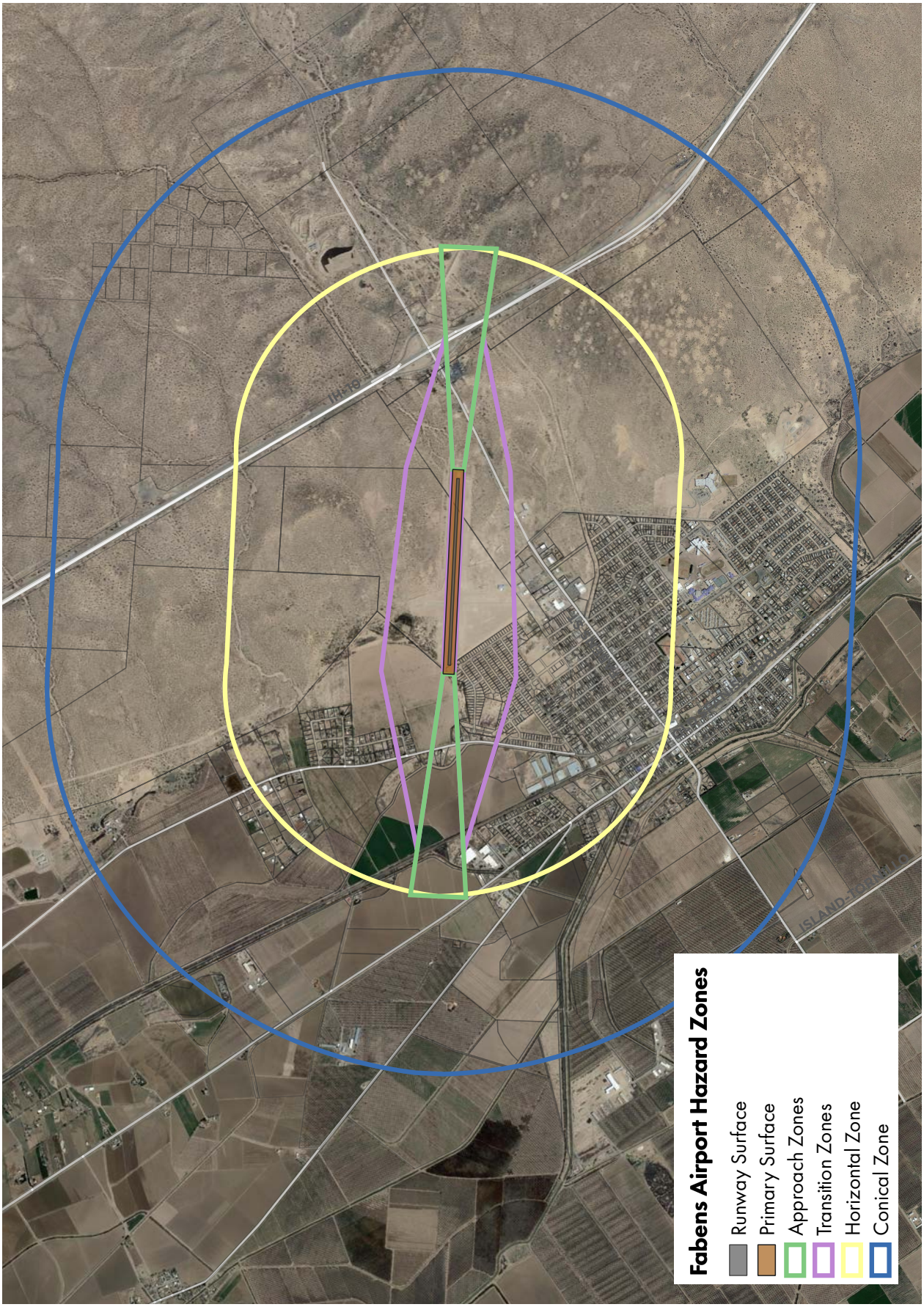


Exhibit 2: Hazard Zones Map-Filled

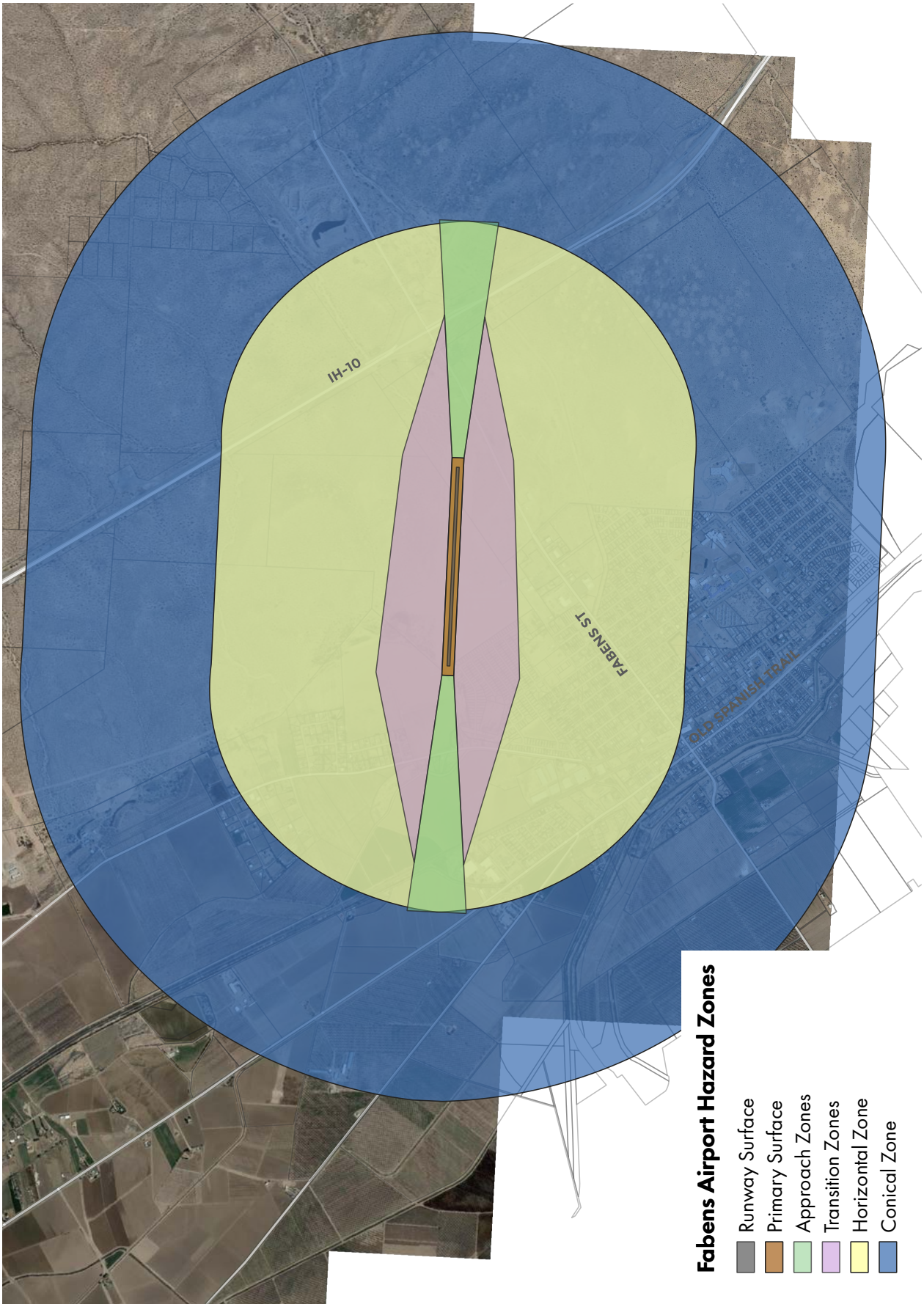


Exhibit 3: Land Use Map

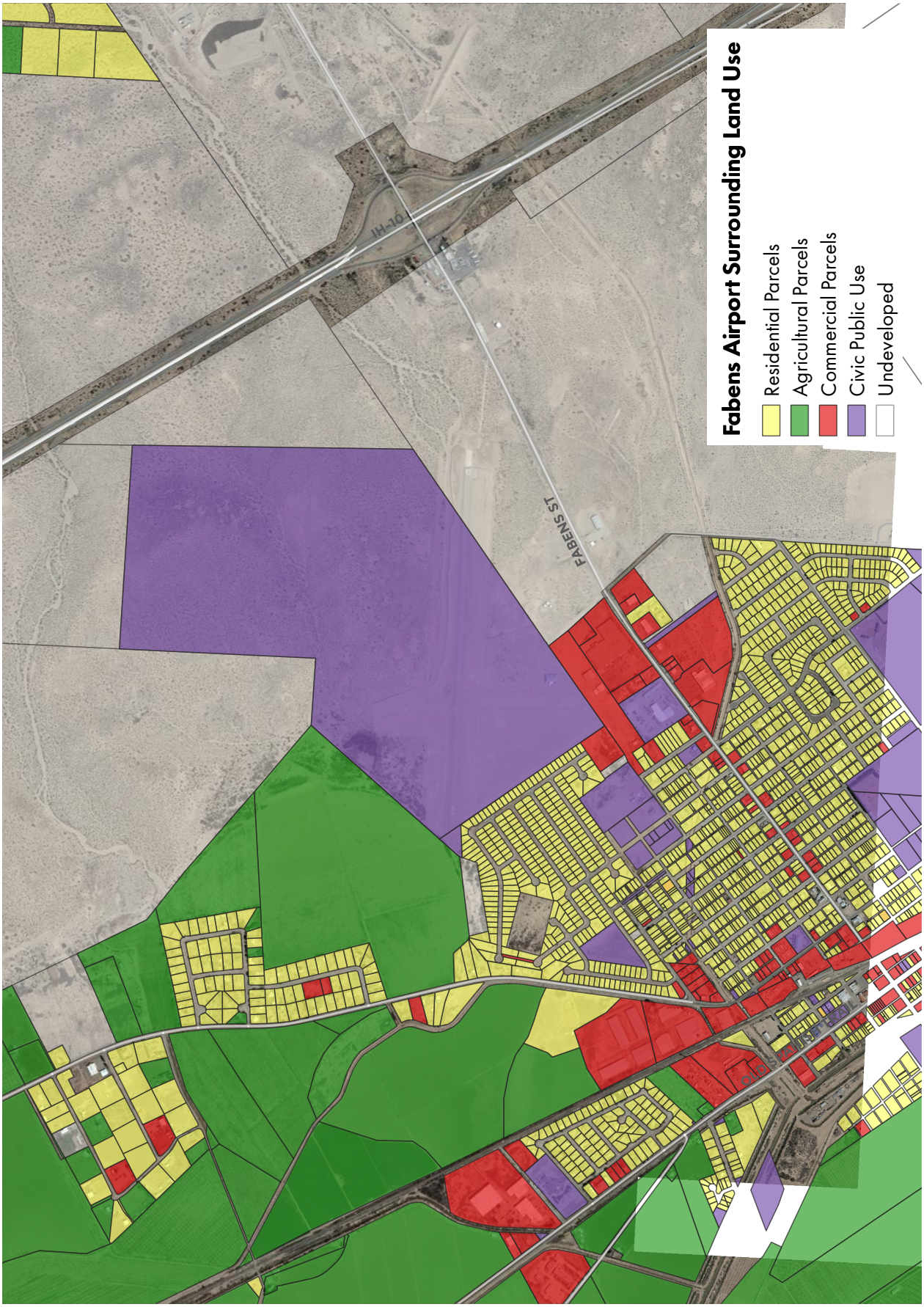
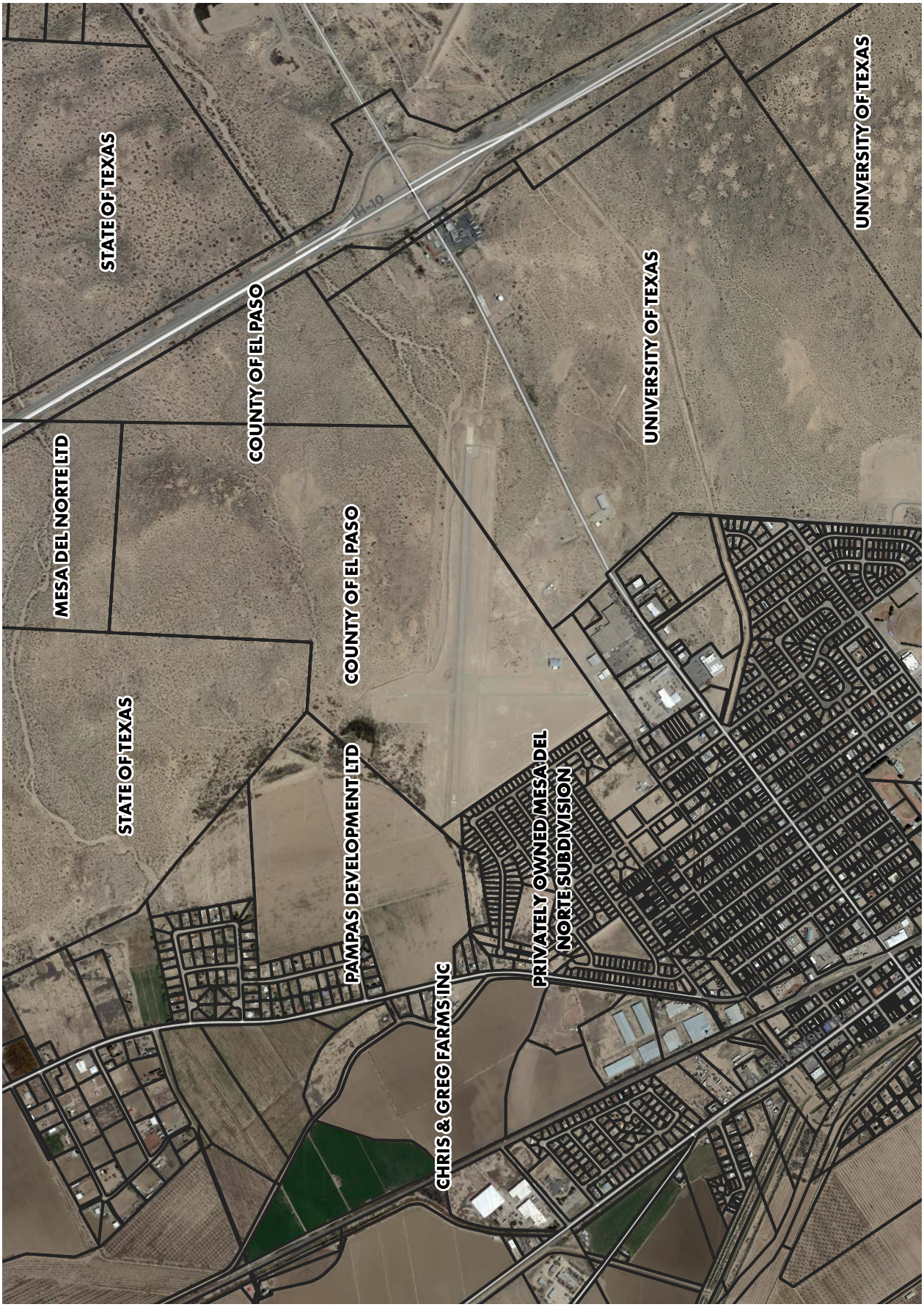


Exhibit 4: Property Ownership Map

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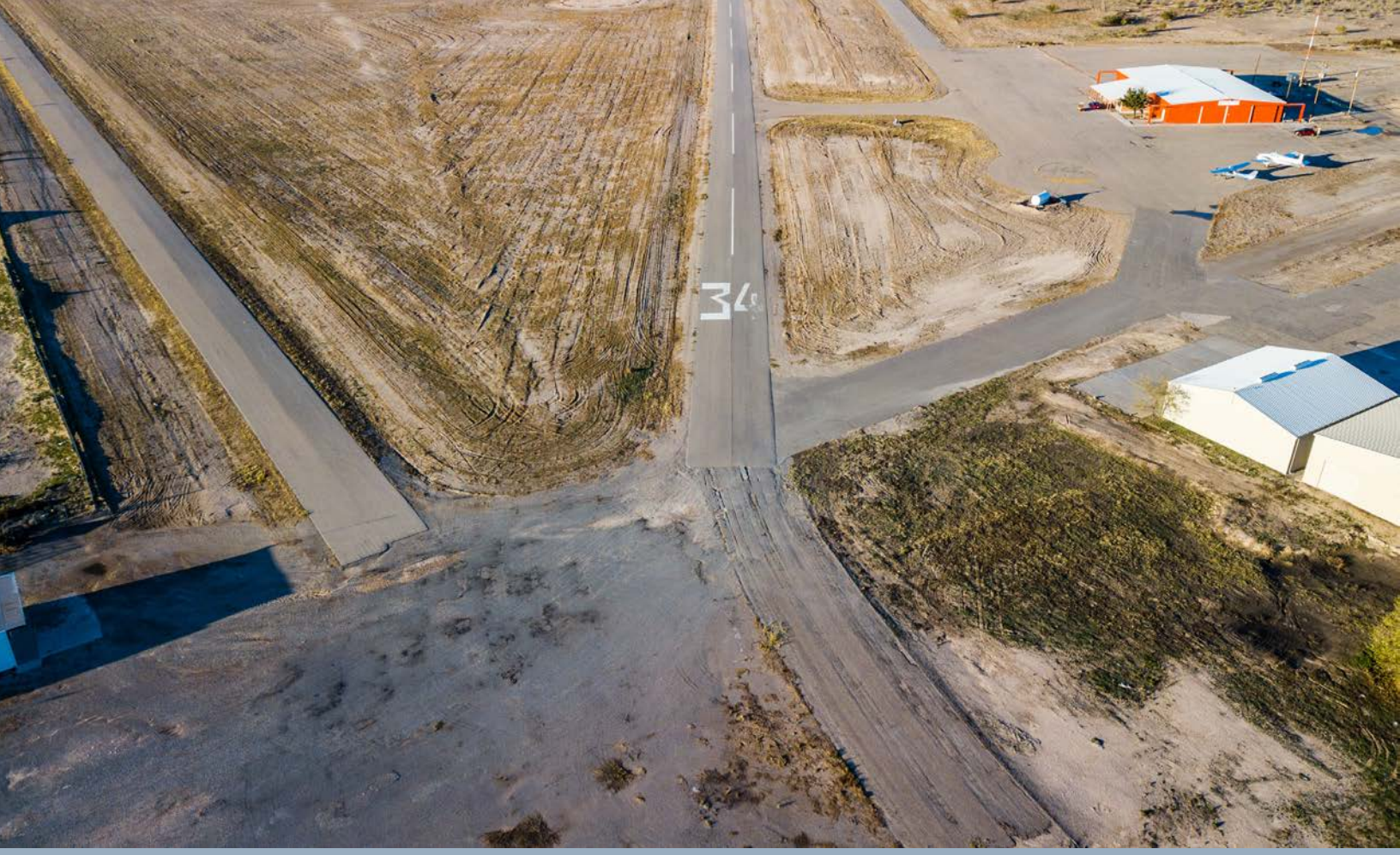

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