



PLANNING COMMISSION

August 3, 2021
MINUTES

I. **CALL TO ORDER**

Chair Judi Roland called the meeting to order at 7:00 p.m. via Zoom due to Governor Inslee's Healthy Washington – Roadmap to Recovery initiative and the Governor's Emergency Proclamation 20-28 due to the Covid-19 Pandemic which establishes the official meeting place, as virtual.

a.) **ROLL CALL/ESTABLISHMENT OF QUORUM**

Commissioners present: Chair Judi Roland; Vice Chair Lee; Commissioner Moutzouris; Commissioner Mason.

Commissioner Stephens had late arrival to meeting and did not vote for approval of minutes.

Commissioner Khanal was excused.

Staff present: Assistant City Attorney Doug Ruth; Planning Services Manager, Jeff Dixon; Planner II, Alexandria Teague; Administrative Assistant, Jenn Oliver. Tim Mensonides, City Airport Manager

Members of the public present: (none)

b.) **PLEDGE OF ALLEGIANCE**

II. **APPROVAL OF MINUTES**

A. **July 20, 2021 – Regular Meeting Minutes**

Commissioner Mason moved, and Commissioner Moutzouris seconded to approve the minutes from the July 20, 2021, meeting as written.

MOTION CARRIED UNANIMOUSLY. (4-0)

III. **PUBLIC HEARING (None)**

IV. OTHER ITEMS

Airport Code Update. City File No. ZOA20-0002: Introduction to Airport Zoning Code Update (amend Chapter 18.38 + Chapter 18.04 ACC).

Staff presented a staff report regarding the Airport Code Update to the Planning Commission.

The City of Auburn has the regulatory authority over how development occurs within the community, including the ability to plan for, abate, mitigate, and otherwise respond to land use concerns. The primary tool is through the City's zoning and land use regulations. The City also has the role of defining the current, short term, and long term vision for growth and development within the City and this is completed through the City's adopted Comprehensive Plan.

Auburn's current Comprehensive Plan as it relates to the Auburn Municipal Airport was largely based on standards developed in 1995 and had not sufficiently kept pace with changing conditions around the airport. Since the 1990s, development in the vicinity has increased, and over the years the airport has had to contend with issues of meeting its own operational, development, and safety needs, with that of the area around it. As a result Auburn's airport continues to face challenges such as the of lack of available land for development and safety, and the encroachment of what are determined to be incompatible uses, obstructions that penetrate the airspace, and noise sensitive uses.

As a result of these changing conditions, staff prepared text amendments for the Comprehensive Plan during the 2020 annual amendment cycle. These amendments were reviewed by the Planning Commission and subsequently approved by the City Council on December 2, 2020. The goal of the text amendments was to reinforce in the policy language the importance of the airport and protect the significant investment that has been made, not only the Federal Aviation Administration (FAA) and Washington State Department of Transportation (WSDOT), but also by the City. A copy of the signed ordinance and adopted policies is attached for reference (Attachment A).

Now staff is in the process of updating the airport-related zoning code regulations. The majority of the airport-related zoning code regulations are contained in Chapter 18.38, the "[LF Airport Landing Field District](#)" of the Auburn City Code (ACC). The purpose of the zoning code, or land use regulations, is to implement the policies of the Comprehensive Plan and its appendices. This ensures consistency.

Regulations for the LF Airport Landing Field District Chapter primarily date back to 1964 (under Chapter 18.40 ACC, Ordinance No. 1702) five years prior to the construction of the Auburn Municipal Airport, also known as Dick Scobee Field. The more recent updates to the LF District regulations (now Chapter 18.38 ACC) occurred in 1987 (under Ordinance No. 4229) and 1997 (under Ordinance No. 5026). So, while staff strengthened the protection of the airport and its operations in the policy statements of Comprehensive Plan during the 2020 annual amendment cycle, this policy guidance must be implemented by corresponding regulations in the zoning code.

KEY CODE CHANGES

Staff is in the process of completing what will look like an overhaul to Chapter 18.38 ACC. However, the bulk of the changes include reorganization of the chapter, standardization in terminology, consolidating sections, and clarifying language.

Other key proposed changes to Chapter 18.38 ACC include:

NEW Airport overlay restrictions and standards section

REVISED Height compliance section

NEW Height mitigation and maintenance section

REVISED Nonconforming structures, trees, land, and uses section

REVISED Variance section

NEW Airport intent and boundaries section

The purpose of the airport zoning overlay is to protect the viability of the Auburn Airport by discouraging incompatible land uses, and mitigating potential safety impacts when siting land uses in proximity to the airport. The proposed airport overlay (Attachment B) will be adopted on the City's Comprehensive Zoning Map.

The WSDOT's "Airports and Compatible Land Use Guidebook" (referenced herein as the WSDOT Guidebook) was used as guidance to create the airport zoning overlay. The WSDOT Guidebook is intended to help airports and communities proactively prevent incompatible development (land use) around airports in the state. It does so by providing best practices and steps to create regulations designed to prevent and deter incompatible uses. The airport zoning overlay will be the mechanism in which regulations, designed to prevent and deter incompatible uses, are applied around the airport – without changing the underlying land use designation and zoning district of the area. So the airport zoning overlay is in addition to zoning district regulations that apply.

The WSDOT Guidebook breaks down an airport zoning overlay into subcategories – referred to as "Compatibility Zones". The six compatibility zones include the Runway Overlay Zone, Inner Safety Zone, Inner Turning Zone, Outer Safety Zone, Sideline Safety Zone, and Airport Operations Zone. The original shape and extent of each compatibility zone was created using the nationwide database of general aviation aircraft accidents and adjusted to account for specific variations such as airfield configuration, usage, runway lengths, types of approach procedure, traffic pattern locations, to be specific for the Auburn Airport.

The extent, shape, and purpose of each compatibility zone are defined in the proposed airport zoning overlay zone and boundaries section of Chapter 18.38 ACC. It should be noted, that Auburn is proposing to add the airport's flight traffic pattern as a seventh zone. While not accounted for in the WSDOT Guidebook, other jurisdictions, such as Arlington and Yakima, have taken a similar approach to account for and mitigate the potential impacts to the airport's flight traffic pattern.

NEW Airport overlay restrictions and standards section

When assessing whether a land use is compatible around the airport, the WSDOT Guidebook provides four basic compatibility criteria, including: noise, affects within the airport influence area, airspace protection, and safety. These four criteria represent the most common effects that an airport can have on the surrounding area, and the effects that the surrounding area can have on an airport. The criteria are explained below in the glossary under “Basic Compatibility Criteria.” The criteria was used to create an inventory of the uses that currently exist within the compatibility zones and assess whether these uses are compatible with the airport and airport operations. The criteria was also used to determine which uses could occur in the future based on the zoning districts that are contained within each compatibility zone. Staff reviewed the land uses within each compatibility zone against the criteria. The WSDOT Guidebook provides a “Airport Land Use Matrix” that notes whether a particular land use type is compatible within a particular zone. Since it is primarily about safety and continued viability of airport operations, It is important to note that all zones do not need the same level of restrictions. Generally, the closer an area is to the airport, the greater the restrictions. It should also be noted that the WSDOT Guidebook does not provide absolute rules and does not recommend a one-size-fits all approach. Local airport managers, city staff, and the community are in the best position to evaluate the specific circumstances and "ground truth" what is appropriate for their airport and surrounding area.

To that end, staff is *proposing to prohibit the following new uses within Compatibility Zones 1, 2, and 3* for safety and noise considerations; they are considered an incompatible use near an airport. Per the WSDOT Guidebook high density residential development, including multiple-family and mixed use developments, are those uses that have the greatest potential for consequences to people on the ground as a result of aircraft accidents. “Special function uses” such as hospitals, nursing homes, K-12 schools, and senior housing fall into this category as well. Zones 1 and 2 of the airport overlay represent the areas where the risk of aircraft accidents is the greatest. Most of the uses proposed to be prohibited could be considered “noise sensitive” uses as well. Noise can be particularly disruptive, in both outdoor and indoor settings, to residential uses, including single family residences and multiple-family developments. The City has received airport a few noise complaints from the multiple family/mixed use and senior housing located in the southwest of Compatibility Zone 3. This represents the area in which departing aircraft may begin turning over this area to fly toward their destination or to remain in the traffic pattern.

Table 1 (below) lists each land use, the WSDOT Guidebook’s recommendation, and the degree to which the land use exists with the airport overlay.

Table 1. Proposed Prohibited Land Uses in Zones 1-3 of the Airport Overlay

Land Use	WSDOT Guidebook Recommendation	To what degree does it exist today?
<i>Multiple-family dwellings, stand alone</i>	Multiple-family dwellings are not appropriate in Compatibility Zone 1 and 2. It is appropriate in Zone 3 in a limited capacity. New developments should be moved away from the extended runway centerline.	No multiple-family dwelling were identified in Compatibility Zones 1-3.

<i>Mixed-use development</i>	Mixed use development is appropriate in Compatibility Zones 1 and 2. It is appropriate Zone 3 provided it does not create height hazard, obstructions, smoke, glare, or other airspace hazards. Mixed use can be compatible with aviation because they often have higher background noise levels that tend to mask aircraft noise, and people living there expect some level of noise disturbance.	One mixed use project exists (The Reserve/Villas) within southeastern Compatibility Zone 3. The property is zoned C-1, Light Commercial. No new mixed-use developments is allowed in the C-1 zoning district. However, a mixed-use development that has received vesting prior to Resolution No. 5187 (adopted December 7, 2015) is an outright permitted use in the C-1 zoning district. Therefore the mixed use development that exists in the southeastern Compatibility Zone 3 is vested.
<i>Nursing homes Assisted living facilities Hospitals</i>	“Special function uses” such a hospital or nursing home, are not appropriate in Compatibility Zones 1-3.	No nursing homes, assisted living facilities, or hospitals were identified in Compatibility Zones 1-3.
<i>Senior housing</i>	Senior housing is not appropriate in Compatibility Zones 1-3.	Technically The Reserve (senior housing) is outside of the southeastern Compatibility Zone 3. The property is zoned C-1, Light Commercial. No new senior housing is allowed in the C-1 zoning district. However, a senior housing that has received vesting prior to Resolution No. 5187 (adopted December 7, 2015) is an outright permitted use in the C-1 zoning district. The senior housing development in the southern Zone 3 is vested and is legally established.
<i>Schools (K-12)</i>	“Special function uses” such as K-12 schools are not appropriate in Compatibility Zones 1-3.	No K-12 schools were identified in Compatibility Zones 1-3.
<i>Daycare center and nursery schools/preschools</i>	“Special function uses” such as daycare centers and preschools are not appropriate in Compatibility Zones 1-3.	One daycare center was identified within the southern Compatibility Zone 2 at this time. The property is zoned C-1, Light Commercial. Daycare centers are permitted outright in the C-1 zoning district.

Single-family dwelling, detached	Single family residences (SFRs) are not appropriate in Zones 1-3.	No SFRs within Compatibility Zones 1-3.
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Also, in the NEW Airport overlay restrictions and standards section, staff is proposing specific standards designed to mitigate potential adverse impacts when siting land uses in proximity to the airport. Table 2, below, depicts the proposed standards and the compatibility zone in which it will apply. As mentioned previously, it is important to note that all zoning district do not need the same level of restrictions. Generally, the closer an area is to the airport, the greater the restriction, and in this case more standards apply.

Table 2. Proposed Standards and the Compatibility Zones in which they Apply

Standard	Applicable Compatibility Zones	Addresses which airport effect
All property owners seeking permit(s) for grading (excluding minor grading permits), building (exceed 50 percent of the value of the building or structure), extension or replacement of public utilities, subdivision, or development activity that triggers public improvements per Chapter 12.64A ACC, shall dedicate an <i>avigation easement</i> to the City of Auburn over the affected portion of their property prior to issuance of said permit(s). The language of the easement shall be provided by the City.	1, 2, 3, 4, and 5	• Noise • Safety • Affects within the airport influence area • Airspace protection
No use may create an electrical interference with navigational signals or radio communications at the airport, or with radio or electronic communications between the airport and aircraft or aircraft to aircraft.	1, 2, 3, 4, 5, 6, and 7	• Safety • Airspace protection
No structure or tree shall be placed, erected, or allowed to grow that makes it difficult for pilots to distinguish between airport lights and other lights, results in glare to pilots, impairs visibility in the vicinity thereof, or otherwise endanger the landing, taking off or maneuvering of aircraft.	1, 2, 3, 4, 5, 6, and 7	• Safety • Affects within the airport influence area • Airspace protection
No use or structure shall emit emissions of fly ash, dust, vapor,	1, 2, 3, 4, and 5	• Safety

gases, steam, or other forms of emissions that may conflict with any operations of the airport.		• Affects within the airport influence area • Airspace protection
No use or activity shall be permitted that would foster an increase in bird population and thereby increase the likelihood of aircraft and bird impact, as determined by the Planning Director in consultation with the Airport Manager.	1, 2, and 5	• Airspace protection • Safety
In order to deter the congregation of wildlife, stormwater facilities must meet or exceed recommendations found in Appendix I-H, Airport Operations of the City of Auburn Surface Water Management Manual (SWMM), as defined in ACC 12.04.010(B).	1, 2, and 5	• Airspace protection • Safety
All property owners within 1,000 feet of properties zoned LF, Landing Field District seeking permit(s) for grading (excluding minor grading permits), building (exceed 50 percent of the value of the building or structure), extension or replacement of public utilities, subdivision, or development activity that triggers public improvements per Chapter 12.64A ACC, shall record an <i>aviation disclosure notice</i> with the King County Recorder's Office containing a requirement to notify , in writing, future owners and tenants prior to signing a lease or sale, of the possible affects from aviation activities. The language of the notice shall be provided by the City.	6	• Noise
All property owners seeking permit(s) for grading (excluding minor grading permits), building (exceed 50 percent of the value of the building or structure), extension or replacement of public utilities, subdivision, or development activity that triggers public improvements per Chapter 12.64A ACC, shall record <i>aviation disclosure notice</i> with the King County Recorder's Office containing a requirement to notify in writing, future owners and tenants prior to signing a	7	• Noise

lease or sale, of the possible affects from aviation activities. The language of the notice shall be provided by the City.		
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REVISED Height compliance section

As mentioned in the preceding paragraphs, the City of Auburn, not the Federal Aviation Administration (FAA), has the authority to regulate land uses surrounding the airport. The FAA relies on the local jurisdiction with land use authority to protect the navigable airspace from both naturally occurring and man-made airspace obstructions. The FAA does however, have a technical advisory role based on its interest in protecting the airspace associated with an airport that is part of the National Plan of Integrated Airport Systems (NPIAS). The FAA is required to administer navigable airspace in the public interest to ensure the safety of aircraft and its efficient use. This is completed through, in part, the Federal Air Regulation (FAR) Part 77 Surfaces and other surfaces, such as Terminal Instrument Procedure (TERPS).

Chapter 18.38 ACC contains the height limitations of the FAR Part 77 Surfaces established for the Auburn Municipal Airport airspace by the FAA. No structure, building, sign, lighting, tree, fence, device, or other object, is permitted to have a height exceeding these surfaces. If one of the aforementioned objects exceeds the surface, it is described as "penetrating the airspace".

The description of the surfaces and their established height limitations remain unchanged. Although Staff has revised the height limitation - compliance section, titled "Structure and use permits" in existing code. The purpose of this section is that, where an object might have a height greater than an established surface, applicants must demonstrate compliance with the height limitations. The revision to this section is to define how compliance must be demonstrated. Generally compliance is demonstrated through documentation depicting the elevation of the structure relative to the airspace. However, if construction or alteration of an object penetrates one of the FAA Part 77 Surfaces, then the applicant will be required to prepare and submit FAA form 7460 "Notice of Proposed Construction or Alteration". With this form the applicant is required to explain to the FAA why the proposal does not constitute a hazard to air navigation and why it will not cause an inefficient use of airspace. It should be noted that while submittal of FAA Form 7460 is not yet codified within the City's code, it is however already a federal requirement.

NEW Height mitigation and maintenance section

Staff is proposing the addition of a maintenance and mitigation section. The purpose of this section is two-fold: to require that aircraft warning lights and markers are maintained and reinforce the requirement that any tree installed near the airport must be maintained such that it does not penetrate the airspace. Where an object penetrates the airspace, the airport manager may require the installation of markers and lights. The existing code requires such markers and lights be installed and maintained by the City. This creates a significant cost and burden to the City. So, staff is proposing to shift the installation and maintenance of the markers and lights to the owner of the structure. The City will however, require a public maintenance easement to allow City access to inspect the markers and lights as needed.

REVISED Nonconforming structures, trees, land, and uses section

The most significant change proposed to the existing nonconforming sections within Chapter 18.38 ACC is tying it back to the existing Chapter 18.54 ACC, the "Nonconforming Structures, Land and Uses" chapter of the Zoning Code (Title 18). Making the connection between Chapter 18.38 ACC and Chapter 18.54 ACC is significant because the latter chapter establishes thresholds of how and when an nonconforming use can continue operations, and when a use or structure loses its nonconforming status. The nonconforming regulations of Chapter 18.38 ACC are not well-defined and create unnecessary ambiguity.

For example, the existing regulations of Chapter 18.38 ACC states that "before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a permit must be secured from the airport manager and, if applicable, the building official."

It does not, though, define what "substantially altered or repaired" means; nor does it define by how much a nonconforming structure or use made be enlarged. Meanwhile, Chapter 18.54 ACC establishes thresholds for the maintenance, repair, enlargement, and the alteration of nonconforming uses.

Also, the existing regulation of Chapter 18.38 ACC related to the abatement (or removal) of nonconforming structures and uses is limited in scope. It states that a nonconforming structure or use that is to be abated is either abandoned or more than 80 percent torn down, physically deteriorated or decayed, and places the burden on the airport manager to make the determination. Moreover, the existing code does not define what is to occur with a use that has been discontinued or subsequently changed to a conforming use, nor does it define the period of time by which a use may be considered abandoned (e.g. vacant or unoccupied). Therefore, staff proposes to address these issues by tying the abatement related regulations of Chapter 18.38 ACC back to Chapter 18.54 ACC, specifically section ACC 18.54.070. This section of Chapter 18.54 ACC outlines under what circumstances nonconforming structures and uses must be abated and clarifies the aforementioned issues.

Further, the existing regulations of Chapter 18.38 ACC also do not define by how much a tree may be allowed to grow taller, or when it must be abated, and when it may be replanted. It should be noted that Chapter 18.54 ACC and Chapter 18.50 ACC the "Landscaping and Screening" chapter of Title 18 do not contain regulations relating to nonconforming trees either. Trees in particular create a unique challenge to airports, as they generally do not start off as something that affects airport operations or penetrate the airspace, but do so over time. Nonconforming trees are those that have existed prior to 1969 and do not require an alteration. However, no permit will be granted for a nonconforming tree that would allow it to become a greater hazard (i.e. grow taller) and if altered, must conform to the new regulation contained in the height limitation – maintenance and mitigation section. Any tree that is diseased, decayed, dead, or dying must be removed, and if required, replaced with a tree that conforms to the height limitation – maintenance and mitigation section.

REVISED Variance section

The most significant change proposed to the variance sections of Chapter 18.38 ACC involves tying it to the City's existing chapter related to variances (Chapter 18.70 ACC). A variance is the mechanism in which relief from zoning development standards in the City Code is granted. Chapter 18.70 ACC contains the criteria in which a variance must

be evaluated, processed, and decided by the Hearing Examiner. While there have been very few variances requested for the airport regulations (i.e. the development standards), Chapter 18.38 ACC does not provide the aforementioned level of specificity. Therefore, staff is using this opportunity to improve upon the variance sections of Chapter 18.38 ACC.

TEXT AMENDMENT

The zoning code text amendment is shown by strikeout/underline and is attached in the packet as Attachment C and as a “clean version” in Attachment D.

Staff concluded their presentation and opened it up for questions from the Planning Commission.

Chair Roland asked about the height of the clearance zones around the airport. Ms. Teague answered by explaining the outermost clearance zone represents a conical surface around the airport and identifying the approximate height above the ground at this outermost point. Vice-Chair Lee asked about the accident history and if there was any particular factors at the airport that contribute to the lack of accidents. Staff responded that they were not aware of any special circumstances.

Tim Mensonides, City of Auburn Airport Manager, indicated that he was unaware of any accident history at the airport but acknowledged that before he was hired, the airport was managed by a firm that was contracted by the city so he may not have information from this time.

The Commission asked what was the most immediate effect of the proposed regulations. Ms. Teague said that it may not affect existing nearby businesses except most immediately it may affect those existing businesses seeking to add Heating, Ventilation, and Air Conditioning (HVAC) to roof tops and that they maintain tree heights that have the potential to affect airspace. It will also have an effect on certain new land uses

The Commission inquired which parts of the proposed update (text amendment) will the public/property owners be most concerned about. Alexandria Teague, Planner II stated that in her opinion there are two main provisions that the public and nearby property owners will be concerned about: that certain, new uses will be prohibited in the newly proposed “Compatibility Zones 1, 2, and 3”, and 2) the requirement that new or redeveloped parcels in Compatibility Zones 1, 2, and 5.

Mr. Mensonides said he had a recent discussion about the regulation changes with the Washington State Dept of Transportation Aviation Division staff, and they were very supportive of the draft changes being proposed. He thanked Ms. Teague for all the work and effort in preparing the slate of changes and remarked that Washington State Dept of Transportation Aviation Division staff had suggested they would like to use the Auburn code as an model code example.

V. COMMUNITY DEVELOPMENT REPORT

Planning Services Manager, Jeff Dixon introduced Tammy Gallier, Administrative Assistant who while has been introduced to the Commission before will be covering for Jenn Oliver while she is on vacation in September and Josh Steiner, the new Senior Planner. He remarked that the Commission will be seeing Mr. Steiner again as part of the Annual Comprehensive Plan Amendments.

Mr. Dixon updated the Commission on city staff's plans for returning to the office in response to COVID. While he informed last month, that staff would be transitioning to three days a week in the office during August, this has been changed by the Mayor. In response to increased incidence of outbreaks, the schedule will be the same as July with staff coming into the office two days a week.

Mr. Dixon said the Commission members are likely aware from the news reports of the fire that happened on W Main St downtown last week. He indicated it will take some time to conduct the structural evaluations and the necessary fire and insurance investigations of the burned building. Then it will likely be a series of phased demolition permits to dismantle portions of the building and determine if any portions are salvageable. This is a long slow process and will see the damaged building in place for some time.

Chair Roland asked about the adjacent city-owned Avenue Act Theater and if performances will be able to continue. Dixon said that while it is closed now, and there had been some water and smoke damage but was hopeful the schedule could continue.

Mr. Dixon explained that the 129-acre General Services Administration (GSA) in SW Auburn, next to Boeing Plant is proposed to be advertised for auction of the land. The Commission may remember a Comprehensive Plan map change and zoning map change that was processed for this property from industrial to heavy commercial and C-3 Heavy Commercial zoning in 2016. An on-line auction will be conducted in October with anticipated closing on the property in January. Vice Chair Lee asked if any portion of the GSA offices would remain in use on the site after the sale. Staff replied that they did not think that to be the case.

Staff reported that the Commission may also be aware from news reports that King County has recently purchased the Clarion Hotel at the NE corner of 16th ST NE and B ST NE in Auburn to use as a permanent supportive housing. This is not a shelter, since residents will live there long-term with on-site staff support. This costs 11.8 million for the County to buy and no city money was used for the purchase. The County will also continue to operate. There are 102 rooms, so should be at least that many residents, though some rooms may be occupied by two persons. The County had a willing seller of the property.

The date of the next planning Commission meeting on September 8th was discussed. It was noted that this will be on a Wednesday due to the Labor Day holiday on Monday. Items planned for the agenda are discussion of the annual comprehensive plan amendments and continued discussion of the airport-related code changes.

With no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:19 p.m.

