

Flying Cloud Airport

Joint Airport Zoning Board

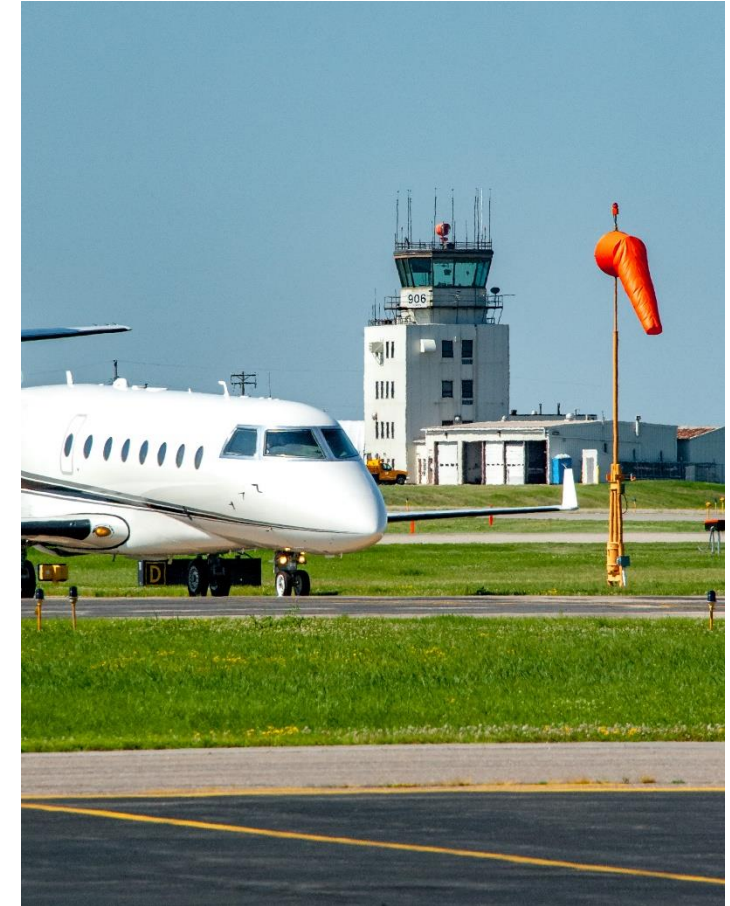


13 September 2018

JAZB Meeting #5

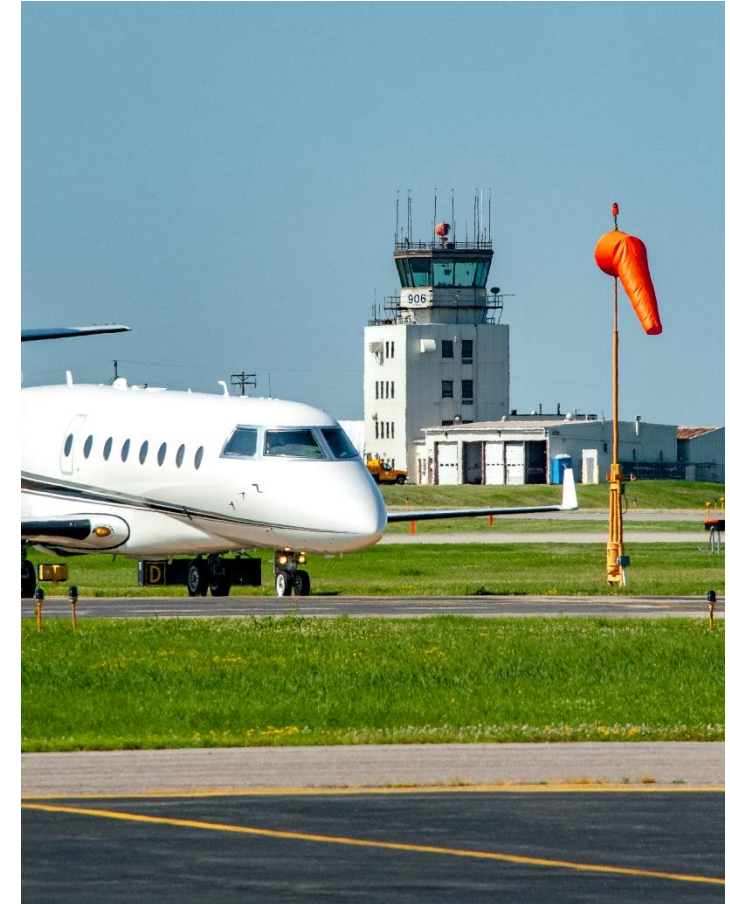
Meeting Agenda

- Chair Opening/Remarks
- Approval of Minutes from April 5, 2018 JAZB Meeting
- Review of Statutory Process for Airport Zoning Submittals
- Review of MnDOT Response to 1st Submittal Materials
- Summary of Supplemental Safety/Risk Study Analysis
- Review of Social and Economic Impact Analysis
- Summary of Proposed Revisions to the Draft FCM Zoning Ordinance
- Review Draft Statement of Legal Authority, Findings of Fact, and Conclusions of Law
- Review of Draft FCM Zoning Ordinance 2nd Submittal Materials
- Motion to Approve Draft FCM Zoning Ordinance 2nd Submittal Materials for submission to MnDOT Commissioner of Transportation
- Next meeting date



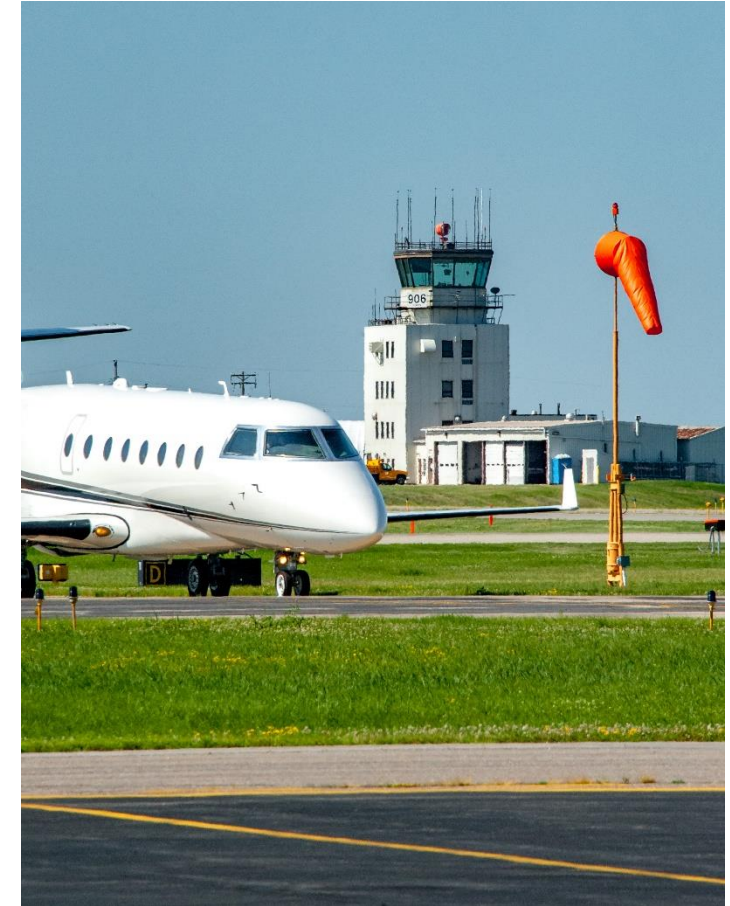
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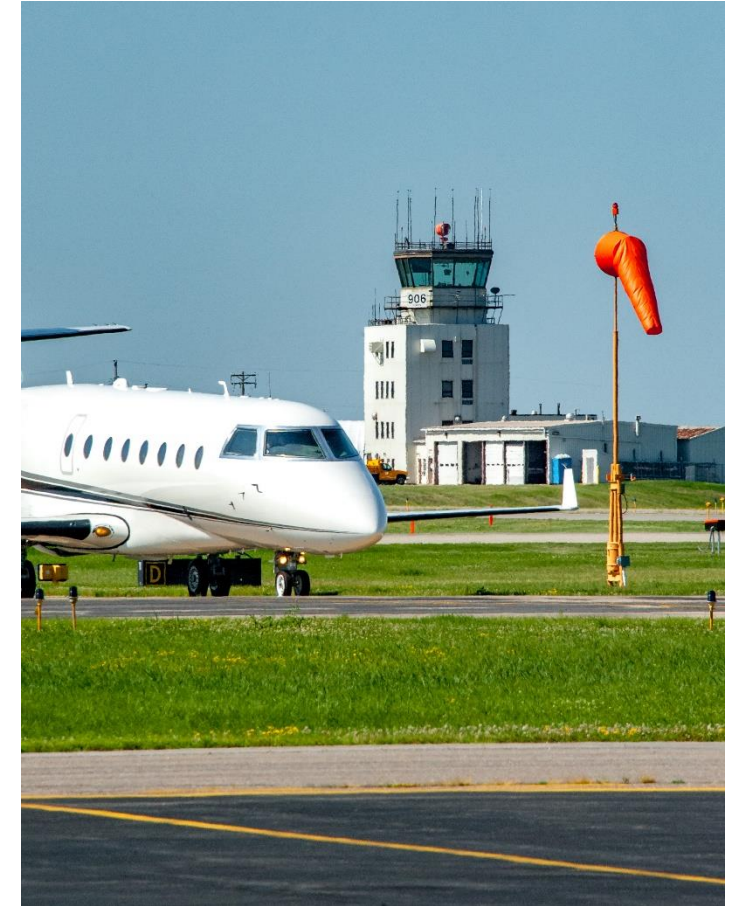
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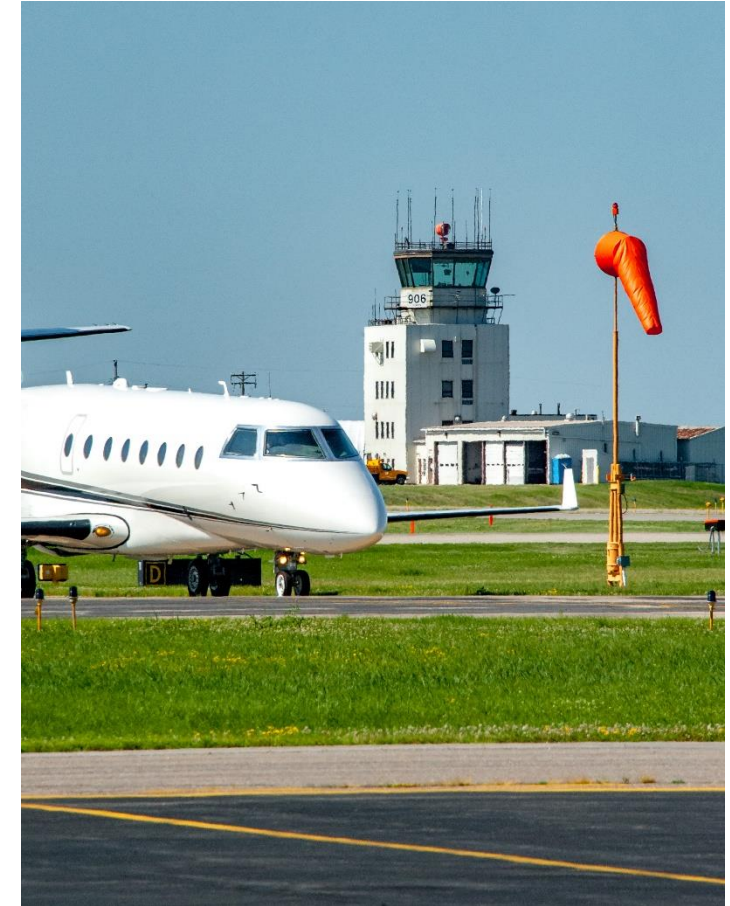
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Review of Statutory Process

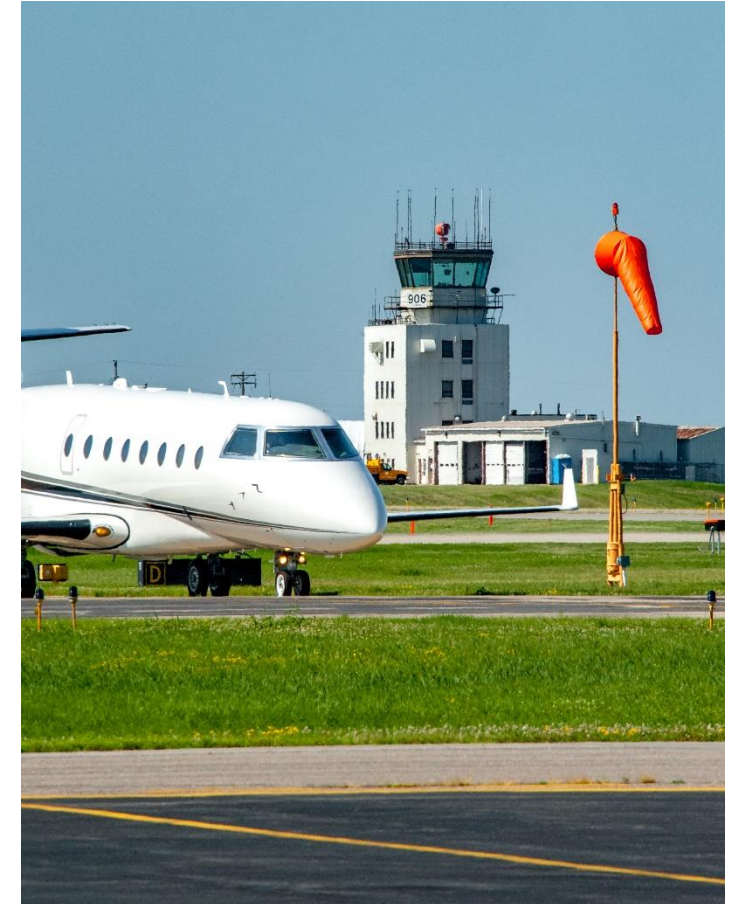
- Minnesota Statutes Section 360.065, subd. 2:

If objections are made by the commissioner of MnDOT on the ground that the regulations do not conform to MnDOT's model standards, the JAZB shall make amendments to meet the objections ***unless it demonstrates that the social and economic costs of applying MnDOT's model standards outweigh the benefits of their strict application.***



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MnDOT Response to First Submittal



Office of Aeronautics
222 E. Plato Blvd.
St. Paul, MN 55107

June 11, 2018

Brad Aho
Chairman
Flying Cloud Airport Joint Airport Zoning Board
6040 28th Ave. S.
Minneapolis, MN 55450

Re: FIRST SUBMITTAL OF UPDATED DRAFT FLYING CLOUD AIRPORT ZONING ORDINANCE

Dear Chairman Aho,

The Minnesota Department of Transportation (MnDOT) has reviewed the proposal for the Flying Cloud Airport Zoning Ordinance dated January 18, 2018. We acknowledge and appreciate the effort the Flying Cloud Airport Joint Airport Zoning Board (JAZB) put forth to prepare this zoning proposal.

Minnesota Statutes 360.065 Subdivision 2 requires the Commissioner of Transportation to determine whether the proposed zoning ordinance conforms to the minimum state standards as defined in the Minn. Rules Part 8800.2400. Promulgated for the purpose of preventing airport safety hazards, state zoning standards are intended to prevent incompatible land uses in runway safety zones to protect the lives and property of users of the airport and of occupants of land in the airport vicinity. MnDOT has determined that the proposed ordinance for the Flying Cloud Airport fails to meet the zoning standards for safety zone areas.

MnDOT objects to the proposed zoning ordinance for the following departures from state standards:

- Safety Zone A is reduced in size from the state standard.
- Safety Zone B does not restrict the density of populations or the ratio of site area to building plot areas described in state standards.
- Areas identified as "Permitted Residential Areas" in the ordinance are exempted from Zone A and B restrictions. This is a departure from standards. The analogous term within state standards is an "established residential neighborhood" that must have existed on January 1st, 1978.

To continue the airport zoning process, state statutes direct the JAZB to revise and resubmit the ordinance in response to this objection, or provide information that demonstrates that the social and economic costs of zoning to the standards outweigh the safety benefits of a strict application of the standards.

It is the goal of MnDOT to ultimately zone all airports in the state system that receive public funding as required by state statute. To that end, prior to the JAZB's next submittal I welcome the opportunity for in-person dialogue with the JAZB, or an appointed subset of the JAZB.

If the JAZB wishes to pursue dialogue, please contact me at 651-234-7210 to arrange for a mutually agreeable time and location to meet.

Sincerely,


Cassandra Isackson
MnDOT Aeronautics Director

CC: Tim Henkel, Assistant Commissioner, Modal Planning and Program Management
Ryan Gaug, Aeronautics Director of Planning and Finance, MnDOT Aeronautics
Bridget Rief, Vice President, Planning and Development, Metropolitan Airports Commission

Equal Opportunity Employer

- June 11, 2018 letter objecting to the proposed zoning ordinance

MnDOT Response to First Submittal



Date: 8/1/2018

To: Flying Cloud Airport Joint Airport Zoning Board

From: Cassandra Isackson, Aeronautics Director

RE: Draft Flying Cloud Airport Zoning Ordinance

Please review and consider the following items in advance of the JAZB's next draft ordinance submittal for Flying Cloud Airport.

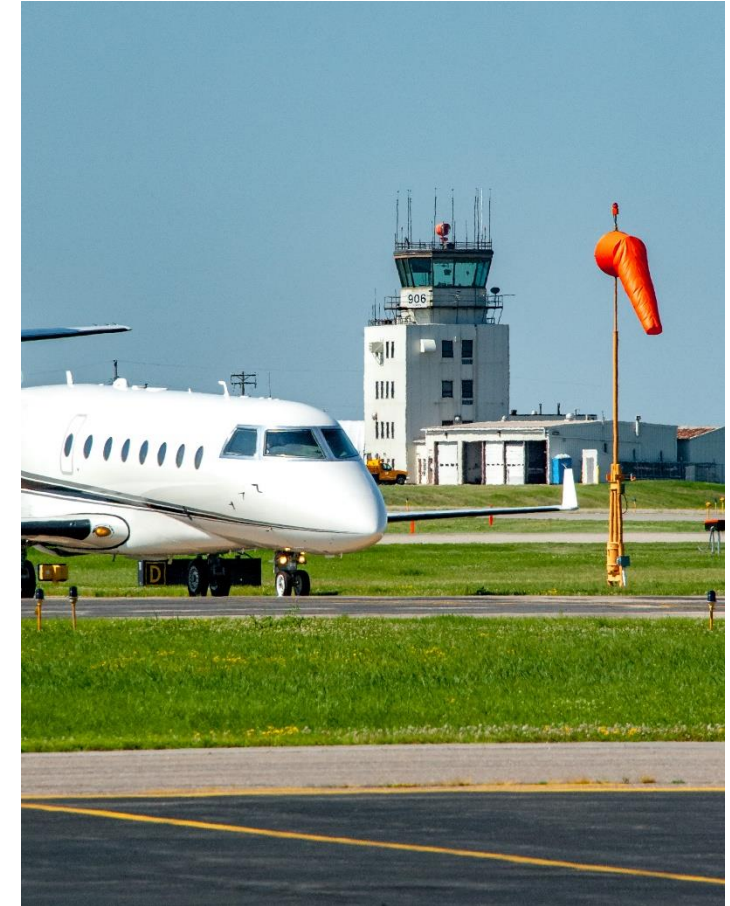
1. The stated statutory purpose of airport zoning is to prevent the creation or establishment of airport hazards. The statutes are intended to protect the lives and property of users of the airport and occupants of land in the vicinity of the airport.
2. The goal of any JAZB should be to adopt the Commissioner's standards and, where necessary, justify departures from the standards for those areas where they cannot be met. The Minnesota Statutes do not allow for an alternate standard of reasonableness or a custom designed ordinance. The JAZB must begin with the Commissioner's standards and only where they cannot be met, and after its first submittal, demonstrate how the social and economic costs outweigh the benefits of a strict application of the standards.
3. It is possible for MnDOT to approve an ordinance that does not meet the Commissioner's standards. However, if no amendments are made to address the departures from the standards prior to the next submittal, MnDOT will not approve the draft ordinance.
4. Zoning the airport to the Commissioner's standards does not require the removal or alteration of any existing land uses. The statutes explicitly state that "no airport zoning regulations...shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 360.067."
5. The JAZB should carefully consider the following for its second submission:
 - a. The airport sponsor owns a majority of the land in state safety zones A and B. Therefore, these areas can and should be zoned to the Commissioner's standards. There is no social and economic cost to zoning airport-owned land as that land has already been obligated to an aeronautical purpose.
 - b. Undevelopable natural features such as lakes and wetlands should be zoned to the Commissioner's standards, as there is no cost to doing so.

- c. The ordinance contains provisions previously understood to be in violation of current state statute. (See section IX A. regarding FAA's 7460 Obstruction Evaluation). The variance process does not comply with the process detailed in Minn. Stat. § 360.067, subd. 2. Finally, MnDOT notes that the FAA, in its obstruction determinations, does not consider land use issues, which is the concern of the local board of adjustment in a variance determination.
 - d. An amendment addressing the factors above could bring the ordinance into, or near, compliance with the Commissioner's standards with little or no impact to the public.
6. Although not required for the first submittal, MnDOT has conducted an initial review of the technical information used to create the submitted ordinance to gain a greater understanding of the choices the JAZB is making. The JAZB should also consider the following:
- a. The methodology used to perform the analysis has led the JAZB to create a "custom ordinance." As stated above, the JAZB should make a bona fide attempt to adopt the Commissioner's standards and justify departures from the standards.
 - b. The Safety/Risk Study Update is not compelling:
 - i. Historical crash point data should be generalized to avoid an implication of precision. The precise location of historical crashes is less relevant than the general areas where crashes occur.
 - ii. The method by which crash point data is aggregated lends itself to logical errors. Similarly-sized zones in more crash prone areas could be labeled with less risk.
 - c. The safety study occupant areas do not match the controls put in place by the ordinance. Occupant areas are used to justify a departure from the standards but development is not limited to occupant areas. The ordinance only provides "20% contiguous open space." This leaves much of the developable land not contemplated within the safety study.

- August 1, 2018 memo with items to consider before re-submitting the draft zoning ordinance

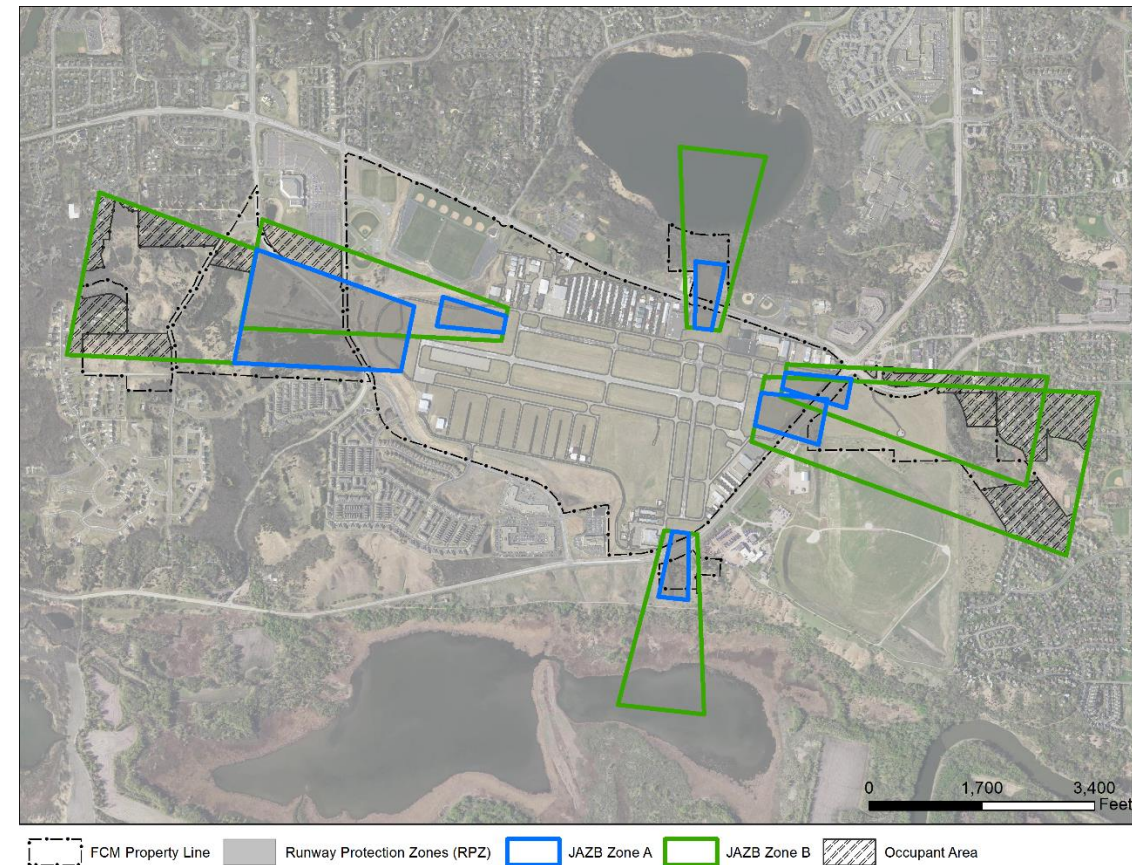
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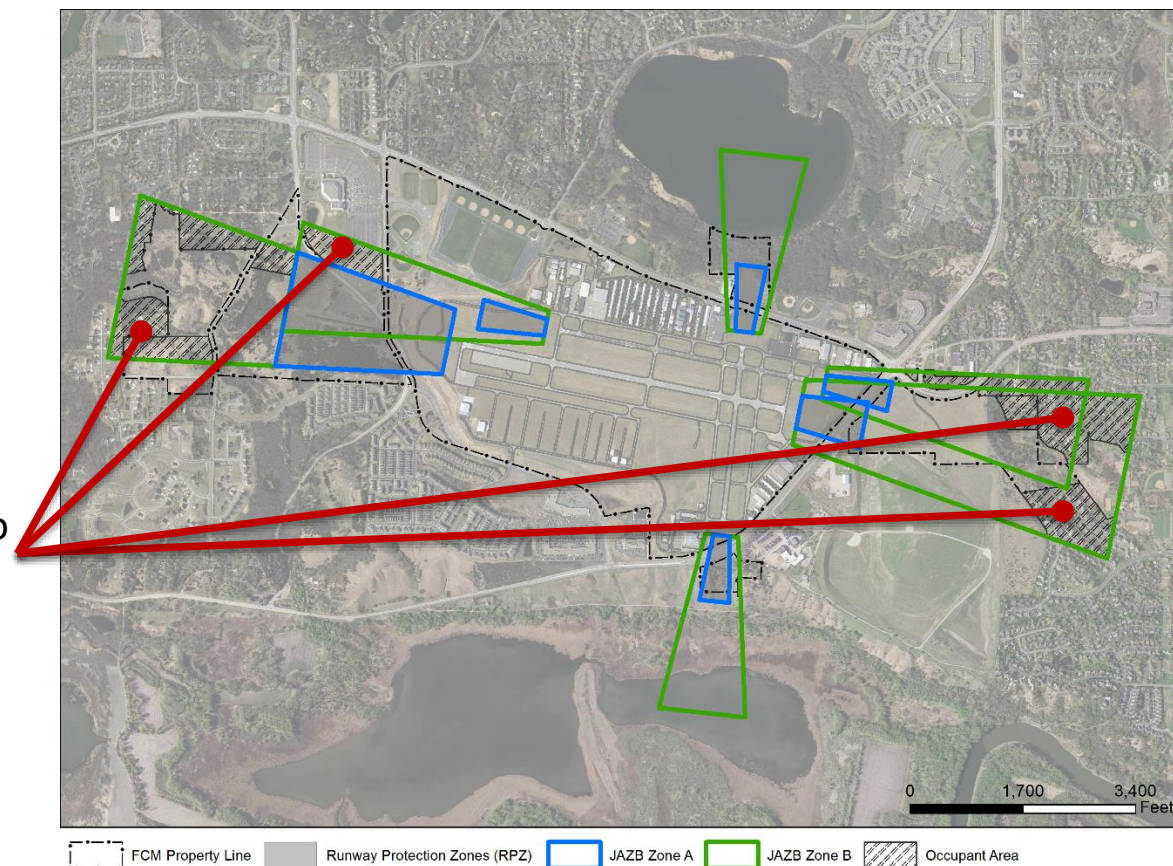
Supplemental Safety/Risk Study Analysis

- Purpose – to test the technical conclusions supporting the Draft FCM Airport Zoning Ordinance
 - The 2017 Safety/Risk Study Update concluded that the risk probability of an aircraft accident in an existing or future **Occupant Area** is below the targeted risk standard of one aircraft accident per 10,000,000 flight operations.
 - **Occupant Areas** = land that is or could likely be developed to accommodate congregations of people in designated safety zones (denoted as hatched areas)
 - Suggests that a strict application of the land use controls prescribed in the MnDOT Model Zoning Ordinance **exceeds what is necessary** to provide a reasonable level of safety at FCM.



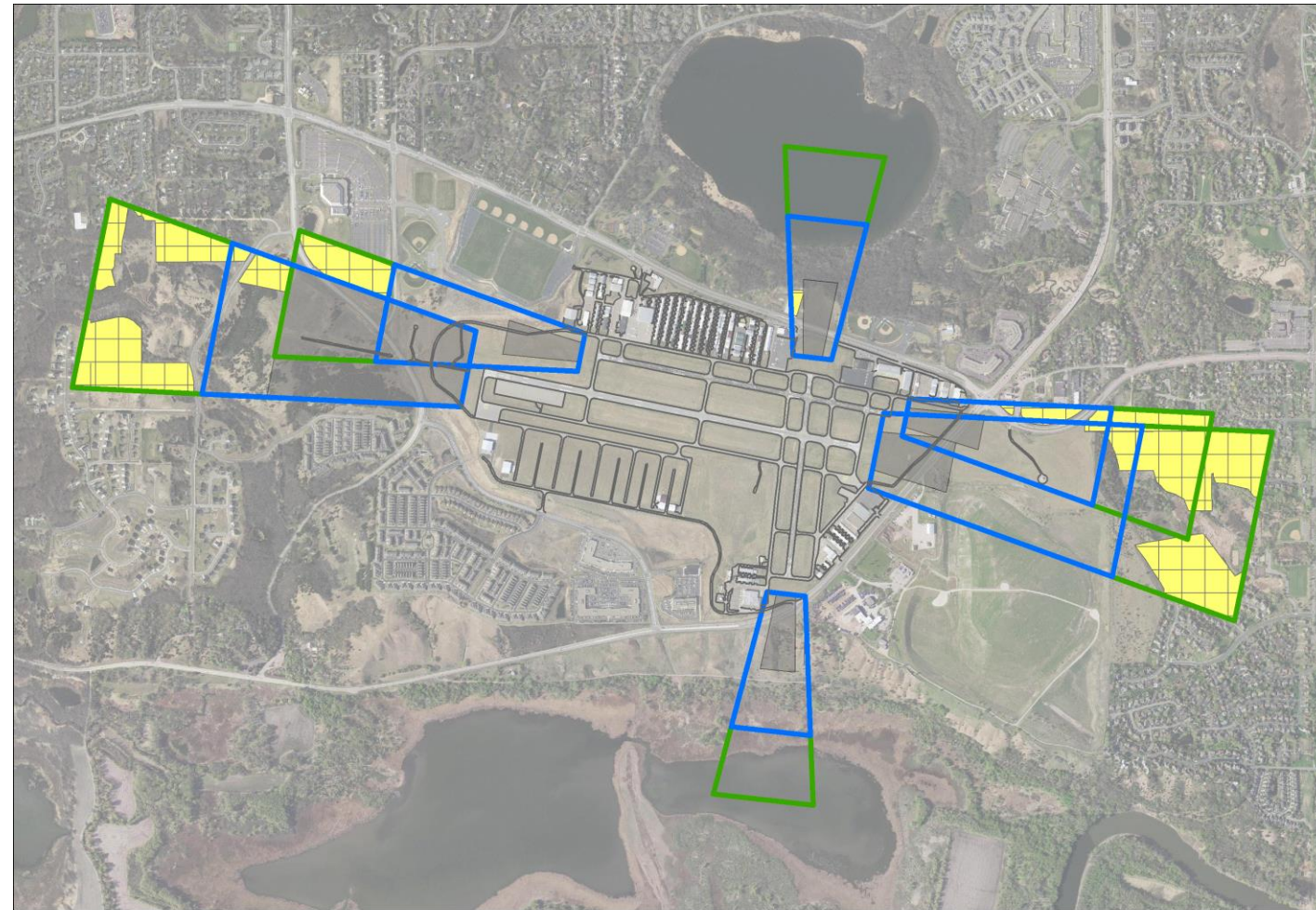
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Supplemental Safety/Risk Study Analysis

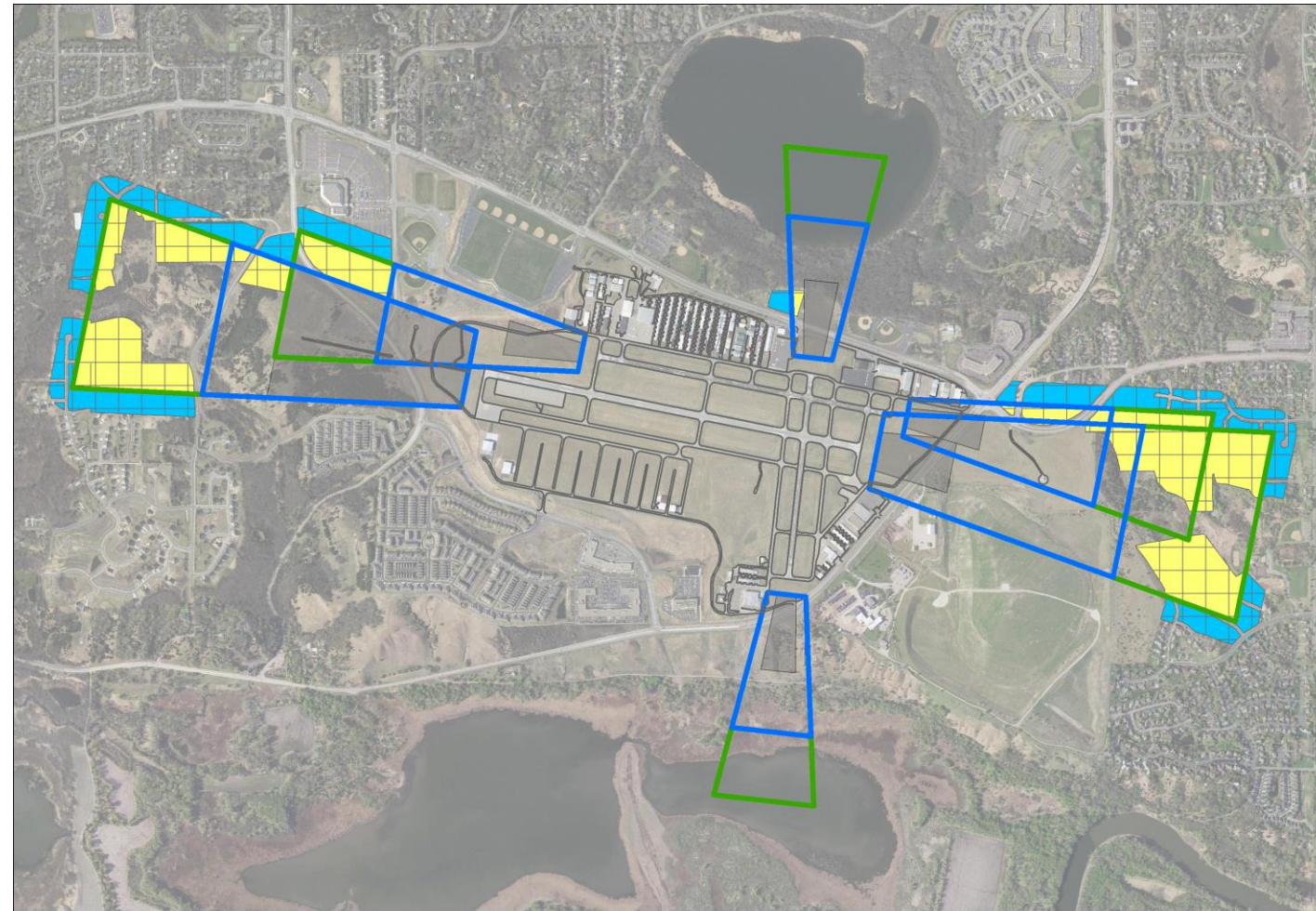
- The supplemental analysis seeks to define aircraft accident probability in multiple areas surrounding the runways at FCM
 - Occupant Areas (yellow shade)



Model Zone A Occupant Area
Model Zone B

Supplemental Safety/Risk Study Analysis

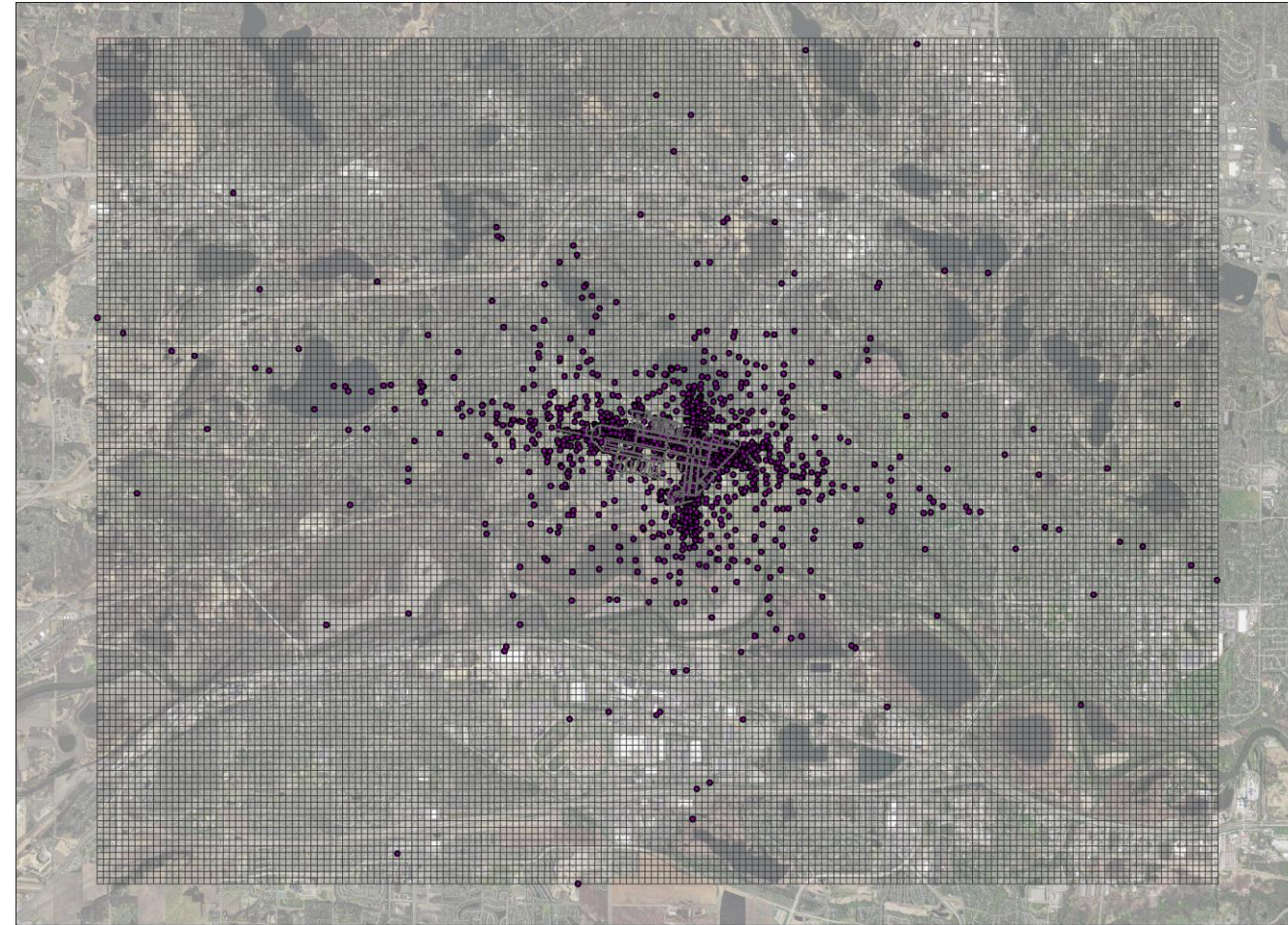
- The supplemental analysis seeks to define aircraft accident probability in multiple areas surrounding the runways at FCM
 - Occupant Areas (yellow shade)
 - Occupant Areas Buffer – adjacent land parcels with similar uses that are located *just outside* (within 300 feet) of the boundary of the State Safety Zones (blue shade)



Model Zone A Occupant Area
Model Zone B MnDOT Buffer Occupant

Supplemental Safety/Risk Study Analysis

- Used the California Study General Aviation Accident Location Data
 - No change from 2017 Safety/Risk Study Update
- “Spread” accident locations over a grid system
 - 300 x 300-foot grid system
 - Calculated accident probability per grid region
 - Avoids an implication of precision
- Normalized accident location data
 - Accounts for FCM specific runway use patterns

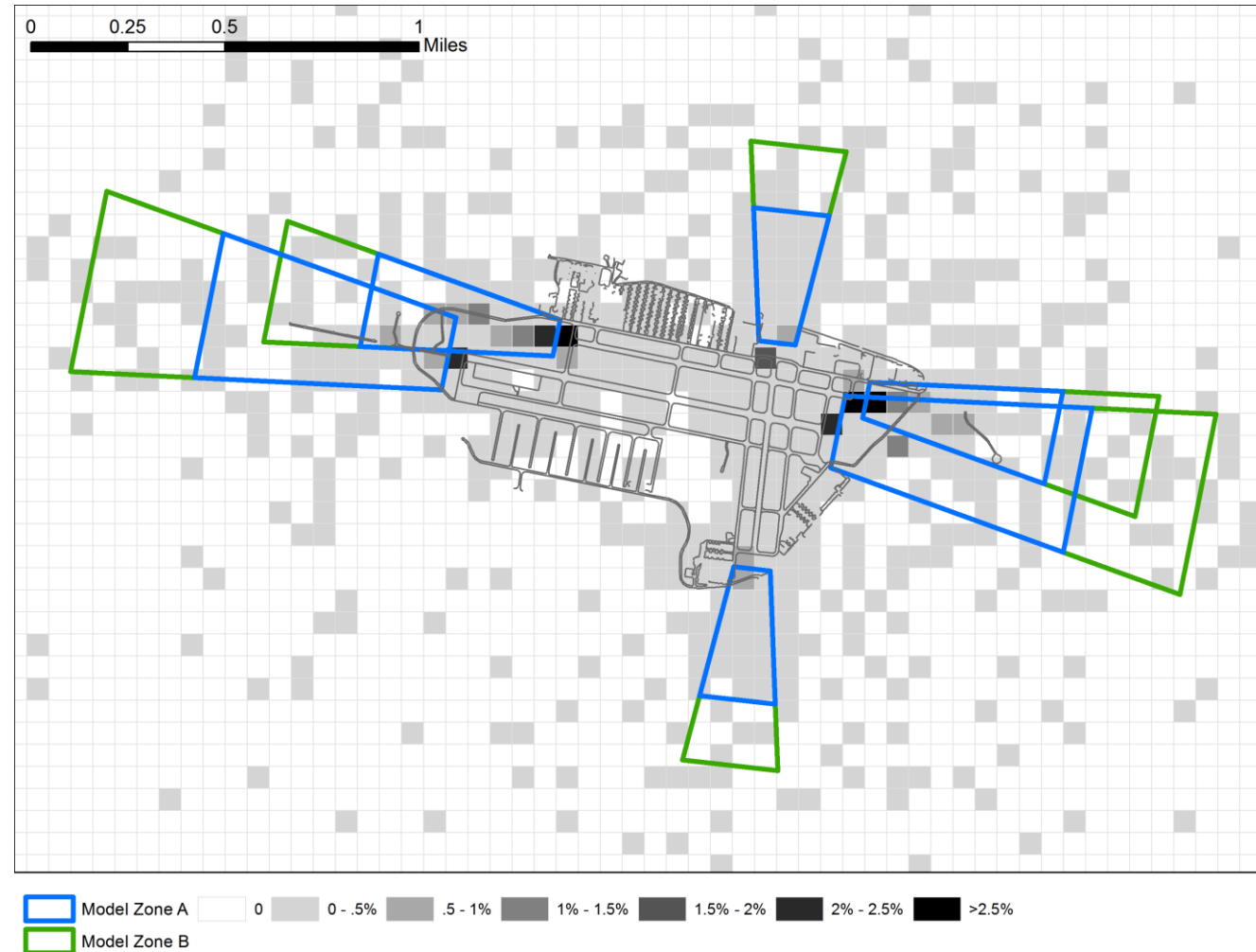


• California Study Accident Locations Overlaid onto FCM

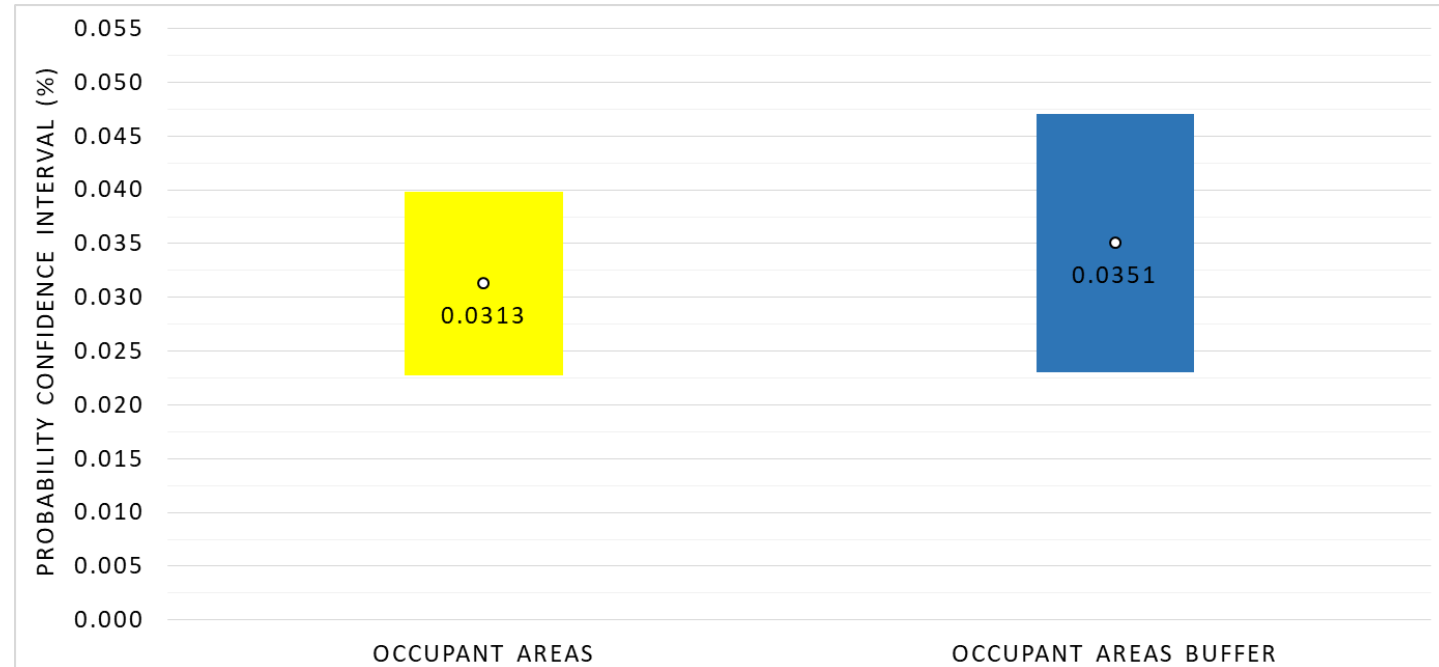
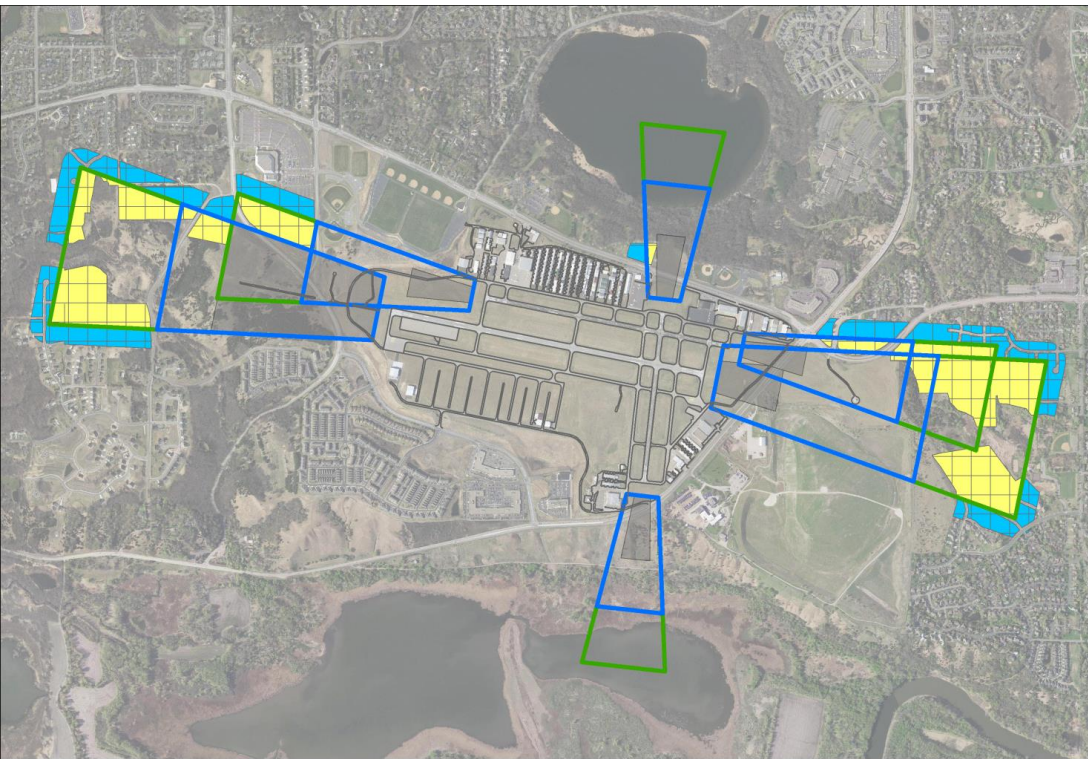
0 0.5 1 2 Miles

Supplemental Safety/Risk Study Analysis

- Calculated Accident Probability per Grid Region
- Calculated Accident Probability for:
 - Occupant Areas
 - Occupant Areas Buffer
- Applied statistical factors to develop a 95% confidence interval probability range

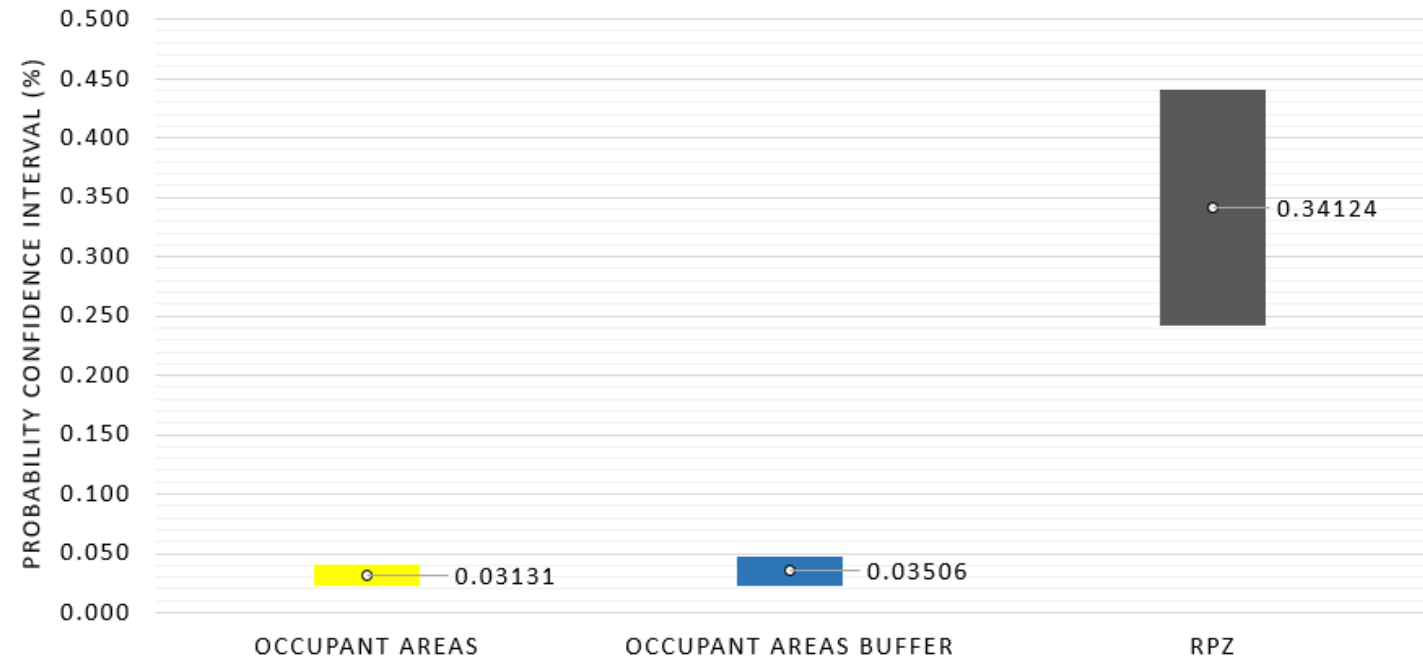
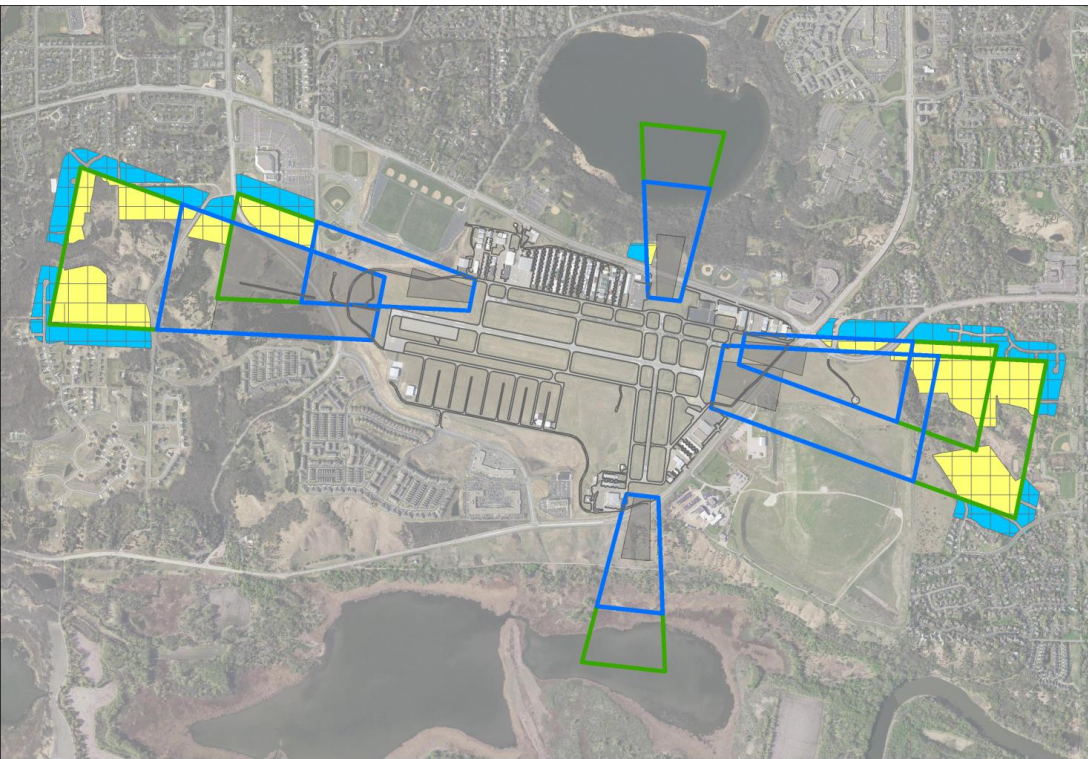


Supplemental Safety/Risk Study Analysis



- **No evidence** that the probability of an aircraft accident within the designated Occupant Areas is greater than in the adjacent parcels located in the Occupant Areas Buffer.
- **No safety benefit** to restrict land uses within the designated Occupant Areas when compared to adjacent parcels in the Occupant Areas Buffer.

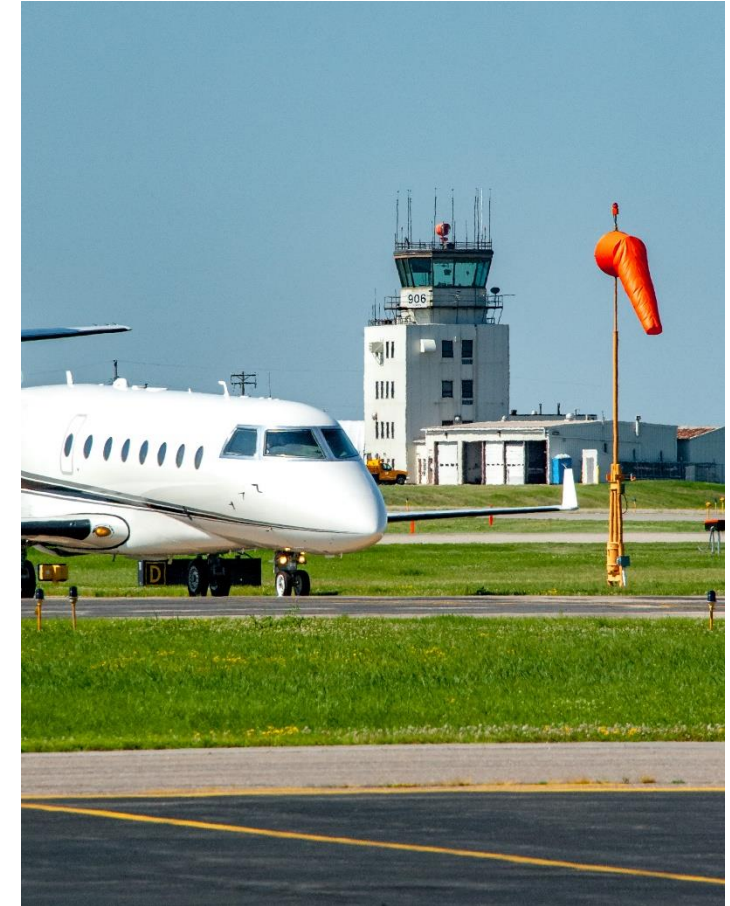
Supplemental Safety/Risk Study Analysis



- Comparison of Occupant Areas and Occupant Areas Buffer Accident Probability Range to RPZ Range
- In this case, there is evidence that the probability of an aircraft accident within the RPZs is greater than in the Occupant Areas and Occupant Areas Buffer.

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Economic Impact Study Update

Economic impact of strictly implementing State vs. JAZB scenario:

- Residential
 - Reduction in total residential development of \$6-15 million
 - Reduction in annual residential real estate taxes of \$20-50 thousand
- Commercial
 - Reduction in total commercial development of \$38-58 million
 - Reduction in annual commercial real estate taxes of \$89-237 thousand
- Combined Residential & Commercial
 - Reduction in total combined development of \$53-64 million
 - Reduction in annual combined real estate taxes of \$139-257 thousand
 - 20-year long-term economic impact value of \$56-69m

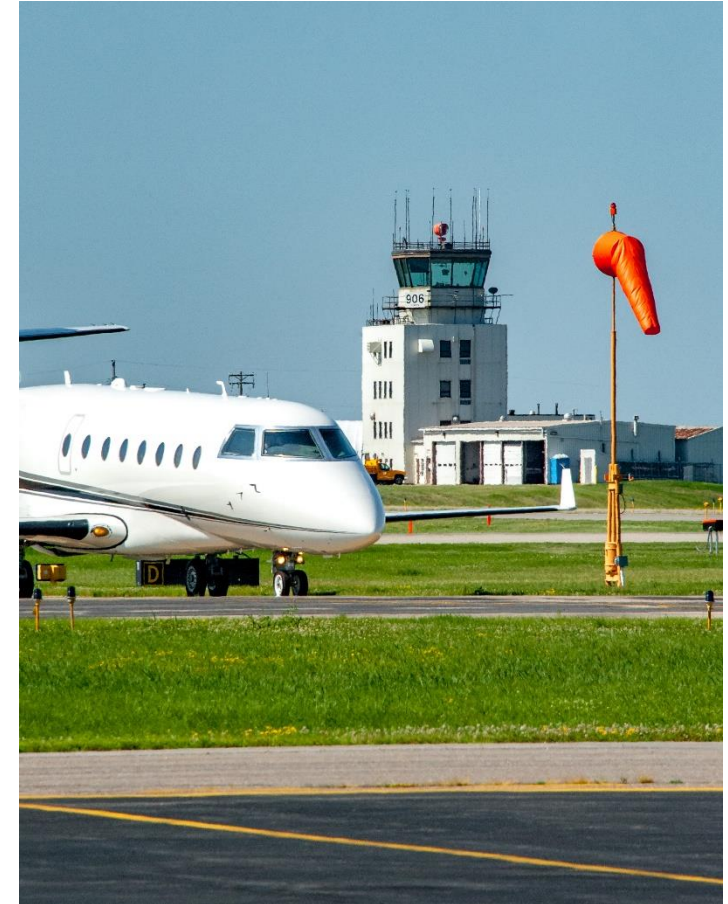
| Combined Development Scenario | Total Development Value | Total Annual Real Estate Tax Value | 20-Year Value |
|------------------------------------|-------------------------|------------------------------------|---------------|
| <u>JAZB Scenario Case 1</u> | | | |
| Range Midpoint | \$56,682,550 | \$153,948 | \$59,761,503 |
| <u>State Model Scenario Case 1</u> | | | |
| Range Midpoint | \$3,925,758 | \$14,632 | \$4,218,405 |
| <u>Differential Case 1</u> | | | |
| Range Midpoint | \$52,756,792 | \$139,315 | \$55,543,098 |
| <u>JAZB Scenario Case 2</u> | | | |
| Range Midpoint | \$75,242,077 | \$304,226 | \$81,326,601 |
| <u>State Model Scenario Case 2</u> | | | |
| Range Midpoint | \$11,583,668 | \$47,303 | \$12,529,722 |
| <u>Differential Case 2</u> | | | |
| Range Midpoint | \$63,658,409 | \$256,924 | \$68,796,879 |

Economic Impact Study Update



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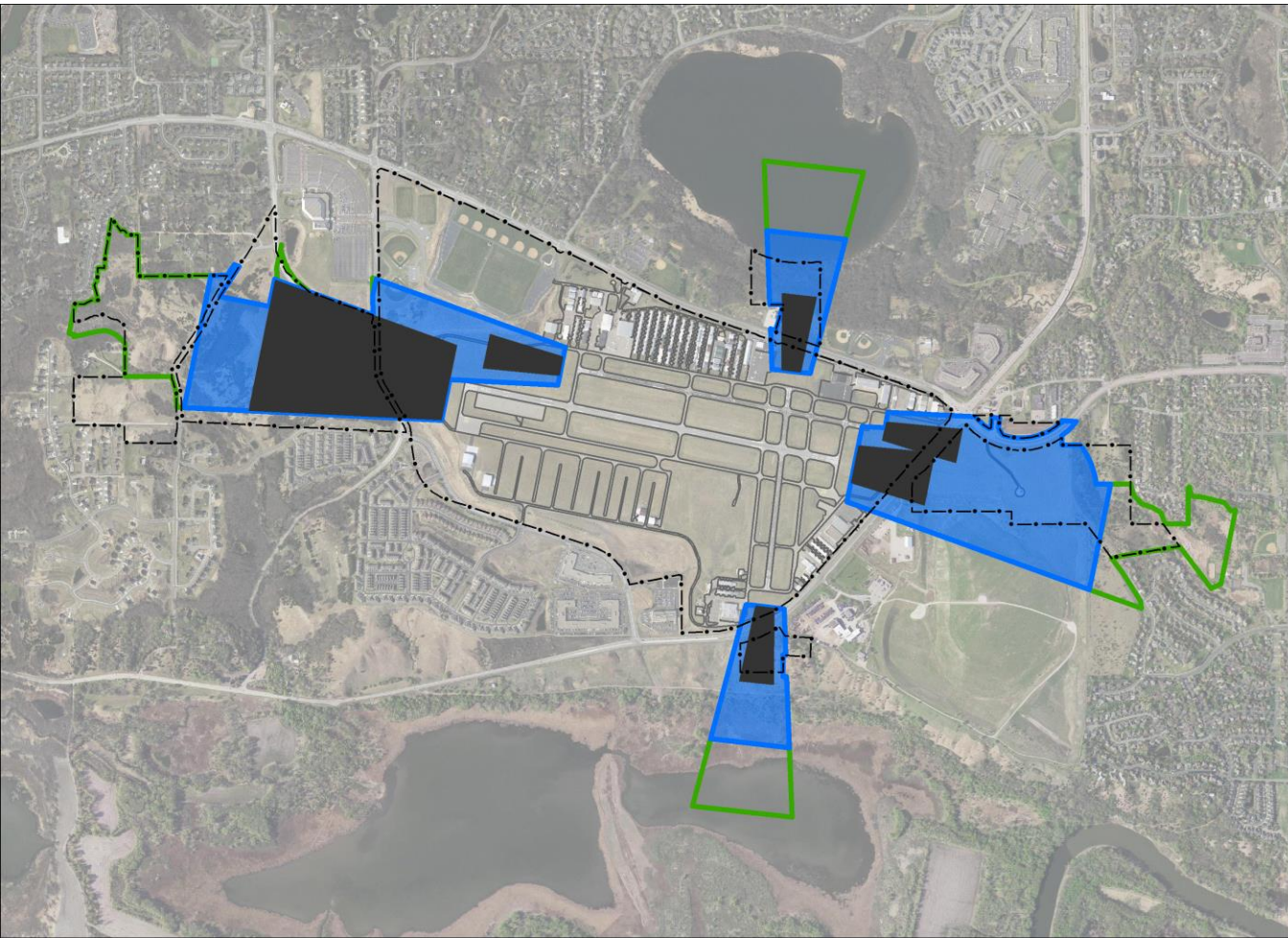
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Revisions to FCM Draft Zoning Ordinance Language

Changes proposed for 2nd Submittal:

- JAZB Zone A
 - Expanded to include land within MnDOT Model Zone A, and is modified to exclude the Occupant Areas.
 - Safety Zone A land use controls are modified to be consistent with those prescribed in MnDOT's Model Standards.
 - Where Safety Zone A overlies the FAA RPZ, however, land uses within the FAA RPZ will be governed by applicable FAA Advisory Circulars, Orders, or other guidance.



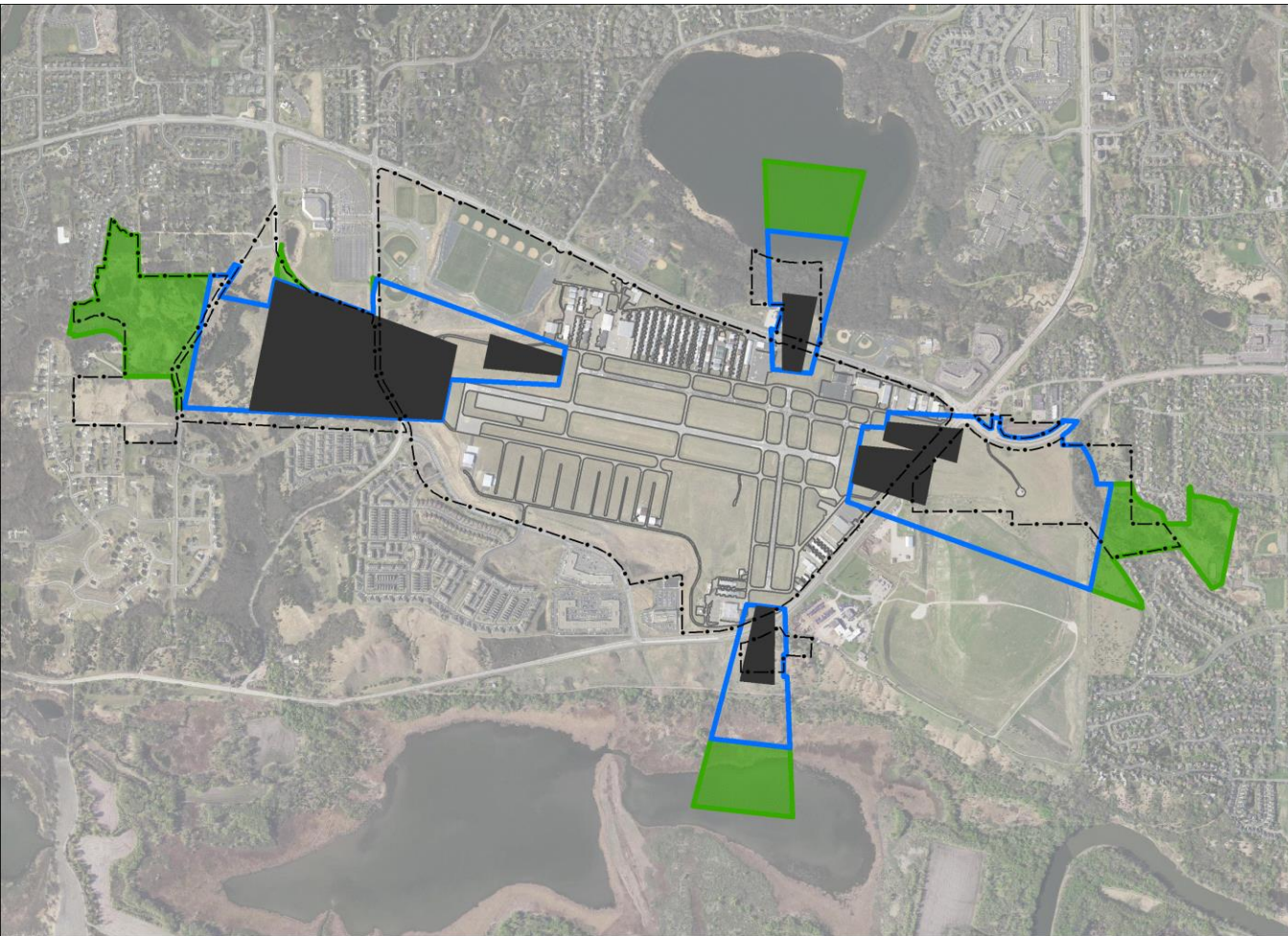
FCM Property Line RPZ Zone A Zone B

0 700 1,400 2,800 Feet

Revisions to FCM Draft Zoning Ordinance Language

Changes proposed for 2nd Submittal:

- JAZB Zone B
 - Modified to include land within MnDOT's Model Zone B, and is modified to exclude the Occupant Areas.
 - Safety Zone B land use controls are modified to be consistent with those prescribed in MnDOT's Model Standards.
 - Additional restrictions placed on ponds or other uses that might attract waterfowl or other birds.



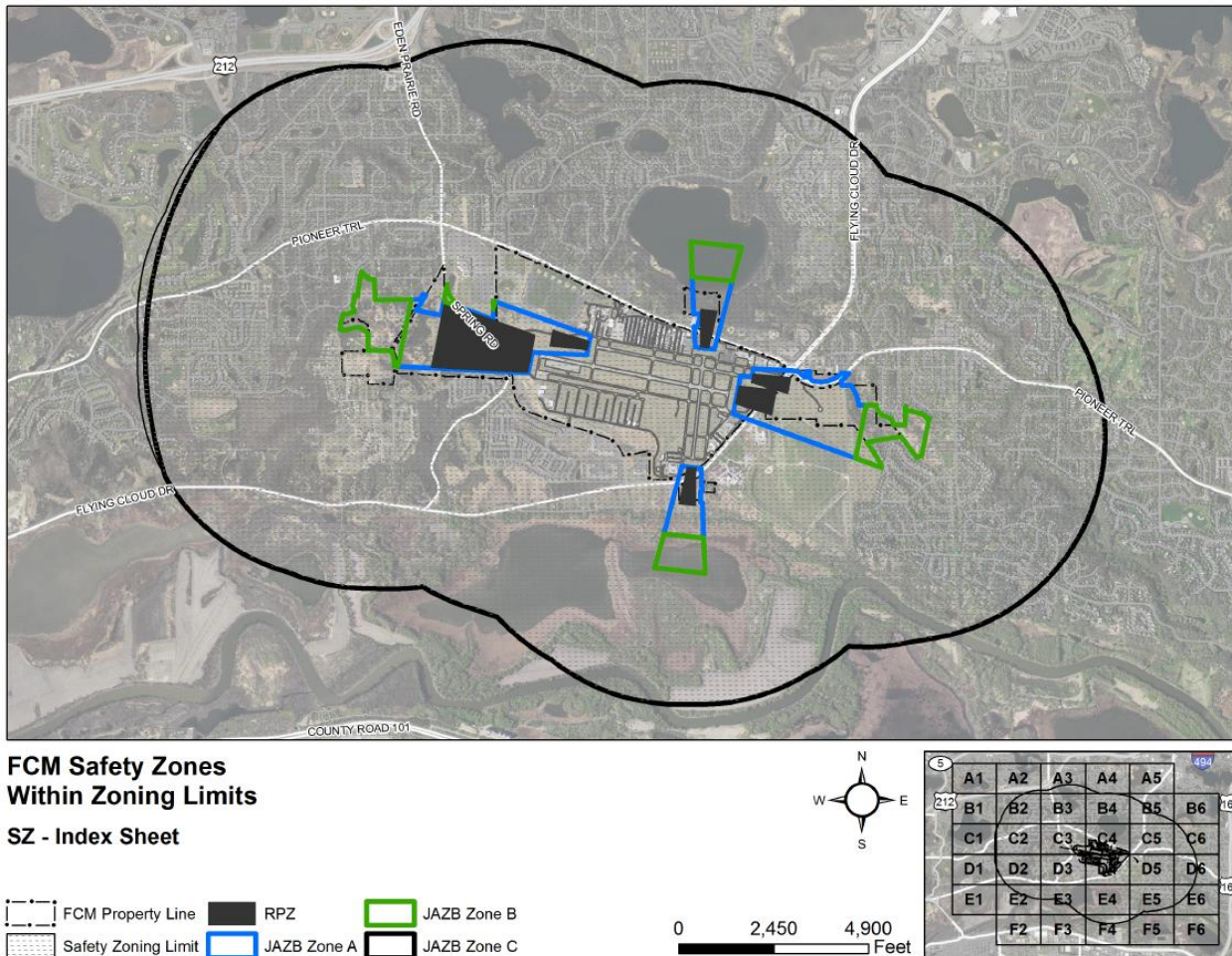
--- FCM Property Line ■ RPZ □ Zone A □ Zone B

0 700 1,400 2,800
Feet

Revisions to FCM Draft Zoning Ordinance Language

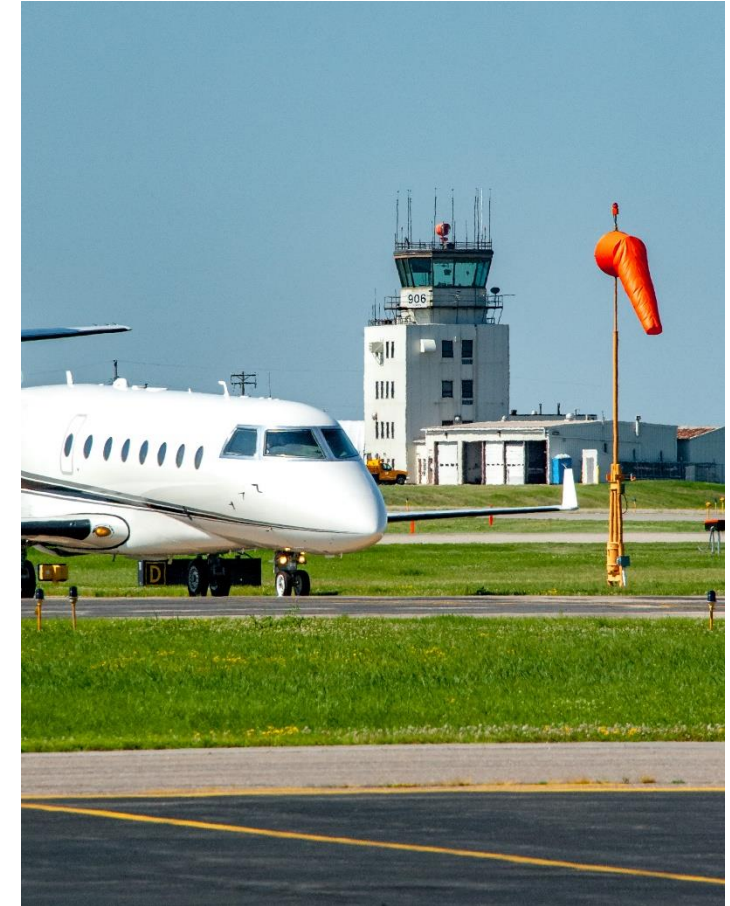
Changes proposed for 2nd Submittal:

- References to “Permitted Residential Areas” are removed
 - These residential parcels are part of the Occupant Areas that have been excluded from Safety Zones A and B.
 - These areas are still subject to Safety Zone C airspace and general land use controls.
- Clarified that a hazard determination under an FAA 7460 Obstruction Evaluation is a general restriction applicable to all zones.
- Removed provision allowing the results of an FAA 7460 Obstruction Evaluation to stand in lieu of a variance for proposed structures that exceed the height limitations
- Updated exhibits and grid maps



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Review Draft Findings & Conclusions

FLYING CLOUD AIRPORT JOINT AIRPORT ZONING BOARD

In the Matter of Adopting a
Flying Cloud Airport
Zoning Ordinance

**DRAFT STATEMENT OF LEGAL
AUTHORITY, FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

The Flying Cloud Airport Joint Airport Zoning Board (the "FCM JAZB") convened to consider adoption of a Flying Cloud Airport Zoning Ordinance ("FCM Zoning Ordinance"), which will regulate the use of property and the height of structures and objects of natural growth in the vicinity of the Flying Cloud Airport ("FCM" or "Airport").

The FCM JAZB, having reviewed and considered the public record before it, intends to adopt the FCM Zoning Ordinance. In support of its action, the FCM JAZB hereby summarizes its legal authority in this Final Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order; and finds, concludes and orders as follows.

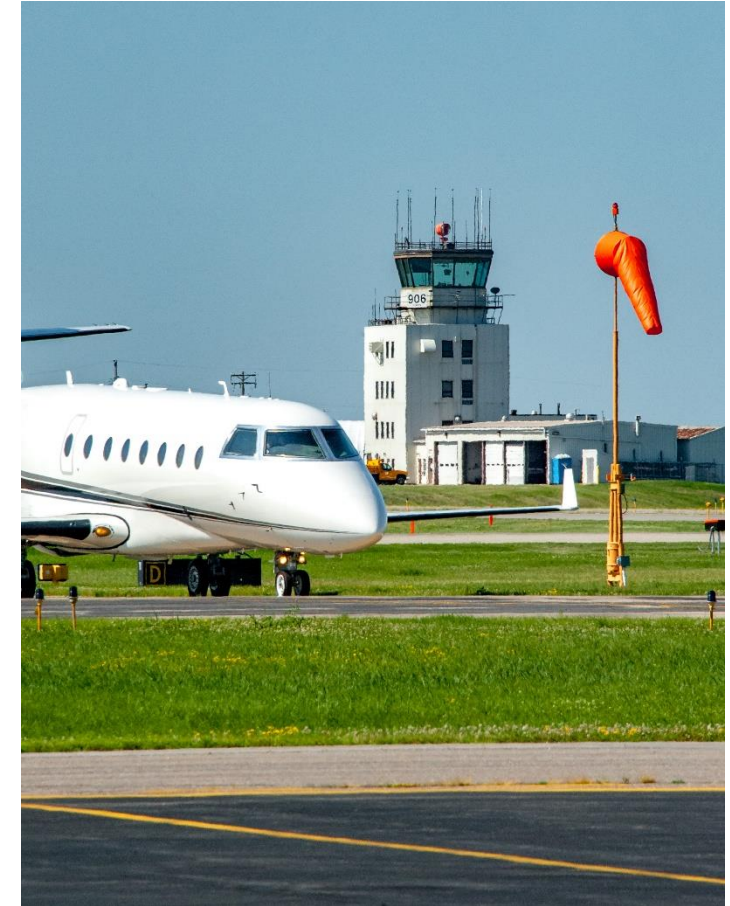
I. LEGAL AUTHORITY

A. State Law: Authority and Purpose of Airport Zoning

1. The general authority to zone around the Airport is established in Minnesota Statutes §§ 360.061 – 360.074 ("Airport Zoning Statute").
2. The Minnesota Legislature ("Legislature") found that airport hazards endanger lives and property of users of an airport and of occupants of land in its vicinity and may reduce the size of the area available for the landing, taking-off, and maneuvering of aircraft, thereby impairing the utility of an airport. See Minn. Stat. § 360.062.
3. The Legislature also found that the social and financial costs of disrupting existing land uses around airports in built-up urban areas often outweigh the safety benefits of a reduction in airport hazards. See Minn. Stat. § 360.062.
4. The Legislature then declared that the creation of airport hazards is a public nuisance and an injury to the community served by the airport, and that the creation of airport hazards should be prevented. See Minn. Stat. § 360.062.
5. The Legislature also declared that the elimination or removal of existing land uses is not in the public interest and should be avoided whenever possible consistent with reasonable standards of safety. See Minn. Stat. § 360.062.
6. Zoning authority within the Airport approach zones extends two miles from the Airport boundary for location, size and use of buildings and for population density. Zoning authority outside the Airport approach zones extends one and one-half miles for height restrictions and one mile for land use. See Minn. Stat. § 360.063, subd. 1.(b).

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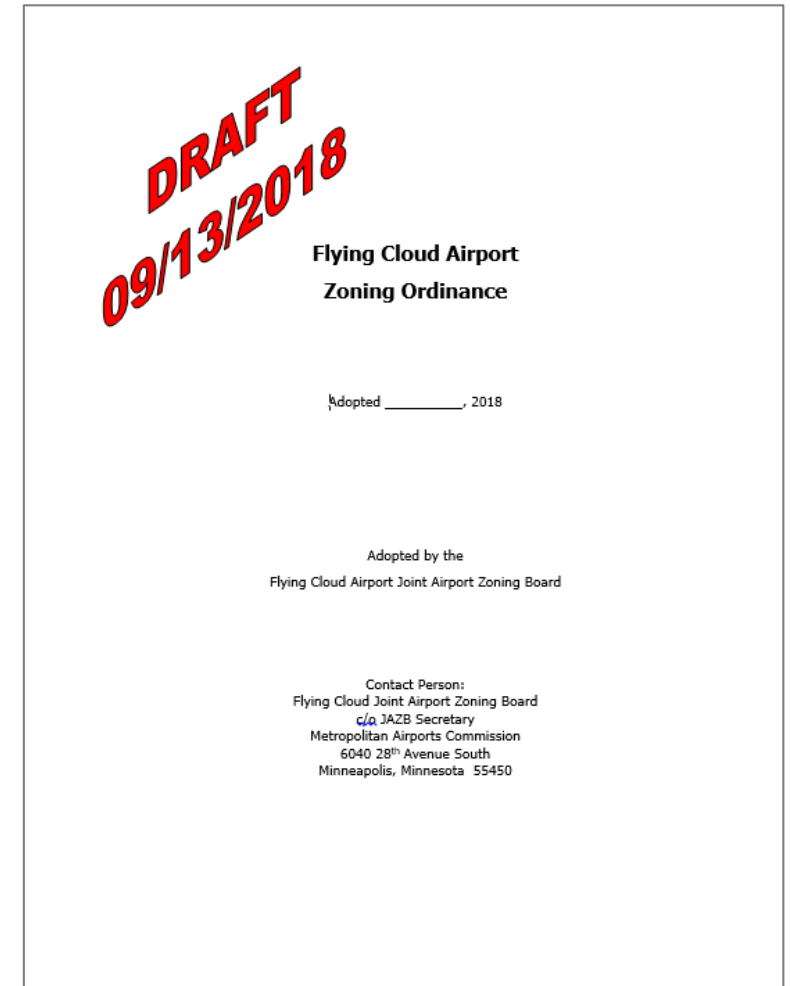
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Draft FCM Airport Zoning Ordinance 2nd Submittal

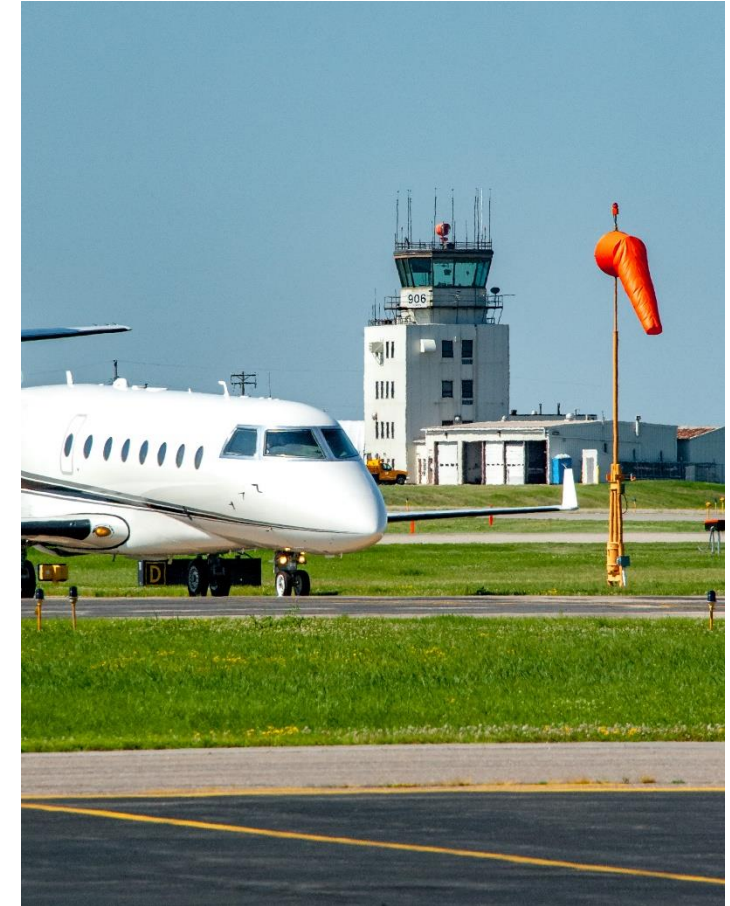
2nd Submittal Package Contents

- Submittal Letter (dated September 20 +/-)
- FCM JAZB Meeting Record
 - Includes material from 2017-2018 JAZB meetings
- Draft FCM JAZB Statement of Legal Authority, Findings of Fact, Conclusions of Law, and Order
- Second Submittal Draft FCM Airport Zoning Ordinance
 - Redlined version denoting changes from 1st submittal



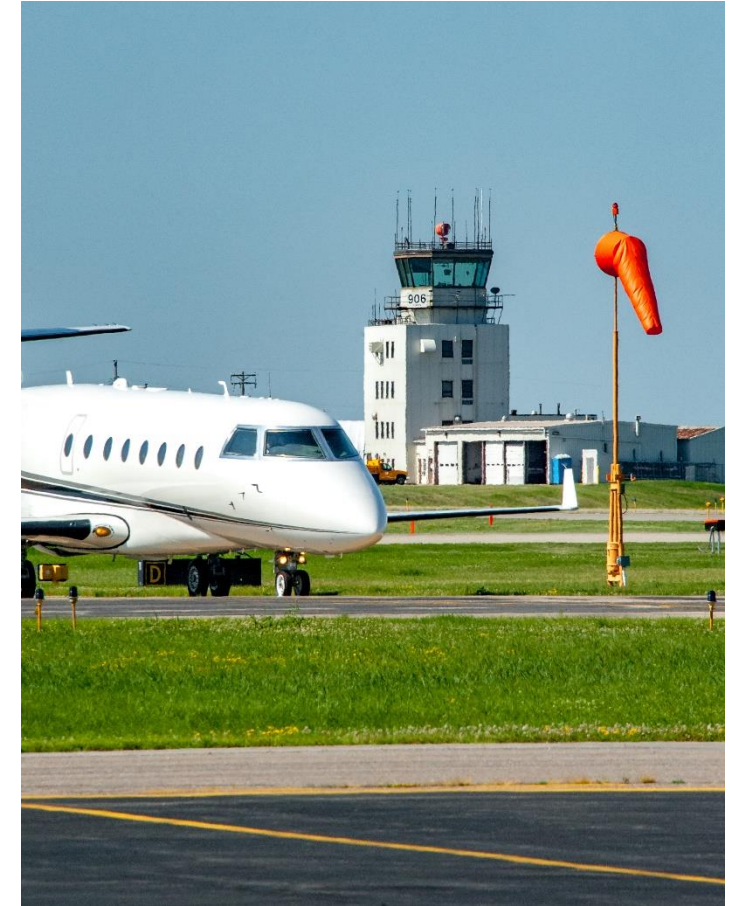
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- Summary of Supplemental Safety/Risk Study Analysis
- Review of Social and Economic Impact Analysis
- Summary of Proposed Revisions to the Draft FCM Zoning Ordinance
- Review Draft Statement of Legal Authority, Findings of Fact, and Conclusions of Law
- Review of Draft FCM Zoning Ordinance 2nd Submittal Materials
- **Motion to Approve Draft FCM Zoning Ordinance 2nd Submittal Materials for submission to MnDOT Commissioner of Transportation**
- Next meeting date



Meeting Agenda

- Chair Opening/Remarks
- Approval of Minutes from April 5, 2018 JAZB Meeting
- Review of Statutory Process for Airport Zoning Submittals
- Review of MnDOT Response to 1st Submittal Materials
- Summary of Supplemental Safety/Risk Study Analysis
- Review of Social and Economic Impact Analysis
- Summary of Proposed Revisions to the Draft FCM Zoning Ordinance
- Review Draft Statement of Legal Authority, Findings of Fact, and Conclusions of Law
- Review of Draft FCM Zoning Ordinance 2nd Submittal Materials
- Motion to Approve Draft FCM Zoning Ordinance 2nd Submittal Materials for submission to MnDOT Commissioner of Transportation
- **Next meeting date**



JAZB Meeting Plan

Meeting 1 (Kickoff):

- Board Member Introductions
- Selection of Chairperson
- Review of FCM JAZB Historical Timeline & Accomplishments
- Summary of 2010 Draft FCM Airport Zoning Ordinance
- Goals for Re-Convened FCM JAZB
- Overview of Meeting Plan and Establish Meeting Dates
- Organizational Logistics

Meeting 2:

- Presentation about efforts to update airport safety zoning laws
- Outline of proposed updates/refinements to 2010 Draft FCM Airport Zoning Ordinance
- Board member input on items to be updated/refined

Meeting 3:

- Presentation of Updated Draft FCM Airport Zoning Ordinance
- Approval of Updated Draft FCM Airport Zoning Ordinance for Public Hearing #1

Public Hearing #1

Meeting 4:

- Review of First Public Hearing comments and responses
- Approval to submit Updated Draft FCM Airport Zoning Ordinance to MnDOT Commissioner of Transportation

Meeting 5:

- Review MnDOT Commissioner of Transportation's comments
- Discuss changes in response to MnDOT comments
- Approval to submit response to MnDOT

**we
are
here**

Meeting 6:

- Review MnDOT final approval
- Approval of Second Public Hearing for Final Draft FCM Airport Zoning Ordinance

Public Hearing #2

Meeting 7:

- Review of Second Public Hearing comments and responses
- Final adoption by JAZB of FCM Airport Zoning Ordinance

Flying Cloud Airport

Joint Airport Zoning Board



Thank you for your participation!