

**BRAZORIA COUNTY – ANGLETON - LAKE JACKSON JOINT AIRPORT ZONING**

**BOARD**

**COMPATIBLE LAND USE ZONING ORDINANCE**

**NO. II**

AN ORDINANCE REGULATING AND RESTRICTING THE USE OF PROPERTY IN THE VICINITY OF THE BRAZORIA COUNTY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE BRAZORIA COUNTY AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This ordinance is adopted pursuant to the authority conferred by the Airport Zoning Act, Tex. Local Gov't. Code Ann., Section 241.001 *et seq* (Vernon 1988).

It is hereby found that excessive noise levels generated by airport operations disrupt activities and impair the welfare, use, and enjoyment of land by the occupants, thus tending to destroy or impair the utility of the Brazoria County Airport and the public investment therein.

Accordingly, it is declared:

- (1) that the Brazoria County Airport fulfills an essential community purpose;
- (2) that the encroachment of noise sensitive, vibration sensitive, or otherwise incompatible land uses within certain areas set forth herein below will endanger the health, safety, and welfare of the owners, occupants, or users of the land, and will destroy or impair the utility of the Airport and the public investment herein;
- (3) that it is necessary in the interest of predictable growth and development of land in the vicinity of the Airport, the long term integrity of Airport usage and operations, and minimizing future conflicts between use and operation of the

Airport and development of land in the vicinity of the Airport that the establishment of incompatible land uses be prevented;

- (4) that airport compatible land use zoning regulations satisfactory to the Federal Aviation Administration (“FAA”) are recommended to Brazoria County, as owner of the airport, to satisfy the sponsor assurances required by the FAA;
- (5) that to accomplish all of the objectives as set forth above, it is necessary to define the boundaries for the Development Zone (in which airport compatible land use zoning regulations are recommended) to minimize to the maximum extent possible, the future potential for public concern caused by noise from the use and operation of the airport; and
- (6) that the prevention of incompatible land uses should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

BE IT ORDAINED BY THE JOINT AIRPORT ZONING BOARD OF THE CITIES OF ANGLETON AND LAKE JACKSON, TEXAS, AND THE COUNTY OF BRAZORIA, TEXAS:

**SECTION 1. SHORT TITLE.** This Ordinance shall be known and may be cited as “Brazoria County Airport Compatible Land Use Zoning Ordinance.”

**SECTION 2. DEFINITIONS.** As used in this Ordinance unless the context otherwise requires:

- (1) ACT means the Airport Zoning Act, Tex. Local Gov’t Code Ann. Section 241.00 *et seq.* (Vernon 1988).

- (2) ADMINISTRATIVE AGENCY means an administrative agency to be designated by the Brazoria County Airport Joint Airport Zoning Board to administer and enforce airport compatible land use zoning regulations.
- (3) AIRPORT means that area of land located within Brazoria County, Texas, currently referred to as the Brazoria County Airport which is designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose. The term includes an area with installations relating to flights, including installations, facilities, and bases of operations for tracking flights or requiring data concerning flights.
- (4) BOARD OF ADJUSTMENT: A Board consisting of Five (5) members appointed by the Brazoria County – Angleton – Lake Jackson Joint Airport Zoning Board each for a term of two (2) years, as provided by the Airport Zoning Act, Tex. Local Gov't. Code Ann., Section 241.032 (Vernon 1988).
- (5) COMPATIBLE LAND USE means a use of land in the vicinity of the Airport within the development zone that does not endanger that health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the Airport, including the taking off and landing of aircraft.
- (6) CONTROLLED COMPATIBLE LAND USE AREA hereinafter referred to as the “DEVELOPMENT ZONE” meaning an area of land located within the boundaries of the airport and in the vicinity of the airport as indicated on “Exhibit A” attached hereto and made a part hereof.

- (7) INSTRUMENT RUNWAY: means existing or planned runway of at least 3200 feet for which there is or is planned to be an instrument landing procedure published by a defense agency of the federal government or by the Federal Aviation Administration. Runway 17-35 is the instrument runway at Brazoria County Airport.
- (8) JOINT AIRPORT ZONING BOARD: Means a board consisting of seven members, two members appointed by Brazoria County, two members appointed by the City of Angleton, two members appointed by the City of Lake Jackson. The six appointed members shall elect by a majority vote the seventh member who shall serve as chairman of said joint zoning board in accordance with the Airport Zoning Act, Tex. Local Gov't. Code Ann., Section 241.014(c) (Vernon 1988).
- (9) LANDING AREA: means the surface area of the Airport used for the landing, take-off or taxiing of aircraft.
- (10) Ldn (Yearly Day-Night Average Sound Level): The 24 hour average sound level in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between 10:00 P.M., and 7:00 A.M., local time as averaged over a span of one year. A mathematical definition of Ldn can be found in FAA Regulation Part 150, Section A150.201.
- (11) NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions set forth herein.

- (12) 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.
- (13) PRIMARY RUNWAY: means existing or planned paved runway, as shown in the official Airport Layout Plan (ALP) greater than 3200 feet in length on which a majority of the approaches to and departures from the airport occur. Runway 17-35 is the primary runway at the Brazoria County Airport.
- (14) RUNWAY: a defined area on an airport prepared for landing and take-off of aircraft along its length.

**SECTION 3. CONTROLLED AREA.** The area within which land use compatibility zoning may take place shall be known as the “controlled area.” The controlled area means that land located outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half (1.5) statute miles from the centerline of an instrument or primary runway and lines no farther than five (5) statute miles from each end of the paved surface of an instrument or primary runway.

**SECTION 4. DEVELOPMENT ZONE.** In order to carry out the provisions of this ordinance, there hereby is created and established a development zone which includes all land regulated by this ordinance. Controlled compatible land use regulations are imposed upon the Development Zone as indicated below and on Exhibit A, “Airport Development Zone” which is attached to this ordinance and made a part hereof.

BRAZORIA COUNTY AIRPORT DEVELOPMENT ZONE:

COMMENCING at the North end of the centerline of the Brazoria County Airport Runway;

THENCE: North 1 degree 48'06" West, along the Northerly projection of the centerline of said runway, a distance of 7200 feet, more or less, to a point in the Southeast right-of-way line of the Missouri Pacific Railroad, said point being the place of beginning of the herein described tract;

THENCE: In a Northeast direction, along the Southeast right-of-way line of the Missouri Pacific Railroad for a distance of 800 feet, more or less to a point for corner;

THENCE: North 88 degrees 11'54" East 900 feet, more or less to a point for corner;

THENCE: In a Southeast direction for a distance of 7700 feet, more or less, to a point for corner in the West right-of-way line of the State Highway #288 Freeway;

THENCE: Following the West right-of-way line of said State Highway #288 Freeway, for a distance of 9400 feet, more or less to a point for corner;

THENCE: In a Southwesterly direction for a distance of 5800 feet, more or less, to a point for corner, said point lies 7700 feet South of and 1250 feet East of the centerline of the South end of the Brazoria County Airport Runway;

THENCE: South 88 degrees 11'54" West 2500.00 feet, to a point for corner;

THENCE: In a Northwesterly direction for a distance of 7800 feet, more or less, to a point which bears South 88 degrees 11'54" West 3300 feet from the centerline of the South end of the Brazoria County Airport Runway;

THENCE: North 1 degree 48'06" West parallel to the Brazoria County Airport Runway, for a distance of 7100 feet to a point for corner;

THENCE: In a Northeasterly direction, for a distance of 6200 feet, more or less, to a point for corner in the Southeast right-of-way line of the Missouri Pacific Railroad; said point bears West 1250 feet from the Northerly projection of the centerline of the Brazoria County Airport Runway;

THENCE: In a Northeast direction, along the Southeast right-of-way line of the Missouri Pacific Railroad, for a distance of 1900 feet to the Place of the Beginning.

**SECTION 5. USE RESTRICTIONS.**

- A. The following uses shall be prohibited in the Development Zone:
- (1) All residential uses except those that are incidental to or ancillary to the operation of the Airport or to the conduct of aviation-related activities;
  - (2) All educational uses, including, but not limited to, public and private schools, kindergartens and child care facilities, colleges and universities, and vocational schools; provided, however, (i) school for flight instruction or for vocations associated with the Airport, airplanes, or aviation-related activities and (ii) facilities for employee or client training or instruction related to services or products associated with the business of the entity

providing such training or instruction (provided such training or instruction is not the primary business of such entity) are permitted in the Development Zone;

- (3) Hospitals, nursing homes, institutions, or any other facilities providing convalescent or rehabilitative care; establishments for the care, treatment, or rehabilitation of alcoholic, narcotic, or psychiatric patients; residence homes for the aged; and, institutions, homes, or rehabilitation centers for persons convicted of crimes; provided, however, medical, dental, or optical clinics for examination, consultation, or treatment of patients as out-patients, medical laboratories, establishments for the sale or rental of or industrial facilities for the manufacture of medical or optical supplies and equipment, pharmacies, veterinarian clinics and related facilities, and public safety or emergency medical facilities shall be permitted in the Development Zone.

- B. Heliports, helistops, and any other facilities for the landing and taking off of helicopters, and accessory uses thereto, shall be permitted in the Development Zone and the Airport Height controlled Area. No heliport, helistop, or other facility for the landing and taking off of Helicopters shall be located within 1,000 feet of any church, library, or public park; however, the City Council of the City of Angleton (with respect to land within its corporate limits) and the City Council of the City of Lake Jackson (with respect to land within its corporate limits) shall have the right to approve the location of a heliport, helistop, or facility for the



landing and taking off of helicopters that is less than 1,000 feet from any church, library or public park.

- C. Hotels and motels shall be permitted in the Development Zone.
- D. No use of land or water shall be allowed within the Development Zone that would create electrical interference with navigational signals or radio communications between the Airport and aircraft, or that would create interference with any internavigation facility, airport visual approach or landing aid, aircraft arresting device or meteorological device, or that would make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, maneuvering of aircraft using the Airport. (No other airport shall be constructed within the Development Zone or the Airport Height Controlled Area.)

**SECTION 6. NONCONFORMING USES, REGULATIONS NOT RETROACTIVE.**

The regulations prescribed by this Ordinance shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and whose completion is diligently pursued. For purposes of this Ordinance, permitted non-conforming structures shall include all phases or elements of a multi-phase structure, whether or not actual construction has commenced, which

has received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulation (14 Code of Federal Regulations, part 77) before the airport zoning regulations were adopted or amended under the Airport Zoning Act.

**SECTION 7. PERMITS.**

- (1) Future Uses. No change shall be made in the use of land and no structure shall be erected or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose of which the permit is desired with sufficient particularity to permit it to be determined whether the resulting use or structure would conform to the regulation 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 Ordinance shall be granted unless a variance has been approved in accordance with Section 7, Par. (4).
- (2) Existing Uses. No permit shall be granted that would allow the establishment or creation of a nonconforming use or structure.
- (3) Nonconforming Use, Abandoned or Destroyed. Whenever the Commissioners Court of Brazoria County determines that a nonconforming structure has been abandoned or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or any nonconforming structure to deviate from the zoning regulations.
- (4) Variances. Any person desiring to use his property in violation of the regulations prescribed in this Ordinance may apply to the Board of Adjustment for a variance

from such regulations in question. Such variance shall be allowed where it is duly found that a literal application or enforcement of regulations will result in unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit and purposes of this Ordinance.

**SECTION 8. ENFORCEMENT.** It shall be the duty of the Commissioners Court of Brazoria County to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the Commissioners Court of Brazoria County, or its designee upon a form published for that purpose. Application required by this Ordinance to be submitted to the Commissioners Court of Brazoria County, or its designee shall be promptly considered and granted or denied. Applications for variance shall be made to the Board of Adjustment by first filing said application for variance with the Commissioners Court of Brazoria County, or its designee who shall forthwith transmit said application to the Board of Adjustment for determination.

**SECTION 9. BOARD OF ADJUSTMENT.**

- (1) A Board of Adjustment is hereby created to have and exercise the following powers:
  - (a) to hear and decide appeals from any order, requirement, decision, or determination made by the Commissioners Court of Brazoria County, or its designee in the enforcement of this Ordinance;

- (b) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass;
  - (c) to hear and decide specific variances.
- (2) The Board of Adjustment shall consist of five (5) members appointed by the Brazoria County-Angleton-Lake Jackson Joint Airport Zoning Board. Each shall serve for a term of two (2) years and is removable for cause by the appointing authority upon written charges, after a public hearing.
- (3) The Board of Adjustment shall adopt rules for its governance and procedures in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such times as the Board of Adjustment determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment 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 Brazoria County Judge and shall be a public record.
- (4) The Board of Adjustment 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 the Ordinance.

- (5) The concurring vote of four (4) members of the Board of Adjustments shall be necessary to reverse any order, requirement, decision, or determination of Commissioners Court of Brazoria County, or its designee or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

#### **SECTION 10. APPEALS.**

- (1) Any person aggrieved, or any taxpayer affected, by any decision of the Commissioners Court of Brazoria County, or its designee made in administration of this Ordinance, if of the opinion that a decision of the Commissioner Court of Brazoria County is an improper application of these regulations, may appeal to the Board of Adjustment.
- (2) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Commissioners Court of Brazoria County a notice of appeal specifying the grounds thereof. The Commissioners Court of Brazoria County shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
- (3) An appeal shall stay all action by any party in furtherance of the decision appealed from, unless the Commissioners Court of Brazoria County certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by

reason of the facts stated in the certificate, a stay would in the opinion of the Commissioners Court of Brazoria County, or its designee cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Commissioners Court of Brazoria County and on due cause shown.

- (4) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent, or by attorney.
- (5) The Board of Adjustment may in conformity with the provisions of this Ordinance reverse or affirm, in whole or in part, or modify the order, requirement decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances.

**SECTION 11. JUDICIAL REVIEW.** Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to a court of record, as provided by the Airport Zoning Act, Tex. Local Gov't. Code Ann., Section 241.041 (Vernon 1988).

**SECTION 12. ENFORCEMENT AND REMEDIES.** The Commissioners Court of Brazoria County may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Ordinance 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., Section 241.044 (Vernon 1988).

**SECTION 13. PENALTIES.** Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$200.00. Each day a violation continues to exist shall constitute a separate offense.

**SECTION 14. CONFLICTING REGULATIONS.** Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations 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 airport compatible land use regulations shall govern or prevail as provided by the Airport Zoning Act, Tex. Local Gov't. Code Ann., Section 241.902 (Vernon 1988).

**SECTION 15. SEVERABILITY.** If any of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 16. EFFECTIVE DATE.** WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Brazoria County-Angleton-Lake Jackson Joint Airport Zoning Board and publication and posting as required by law. Adopted by the Brazoria County- Angleton- Lake Jackson Joint Airport Zoning Board this 11<sup>th</sup> day of April, 1990.

X

FRANK W. STEVENS

X

JAMES COLLINS

X

TYLER A. BAKER

X

KENNETH H. HIGH

X

EARL E. CAMERON

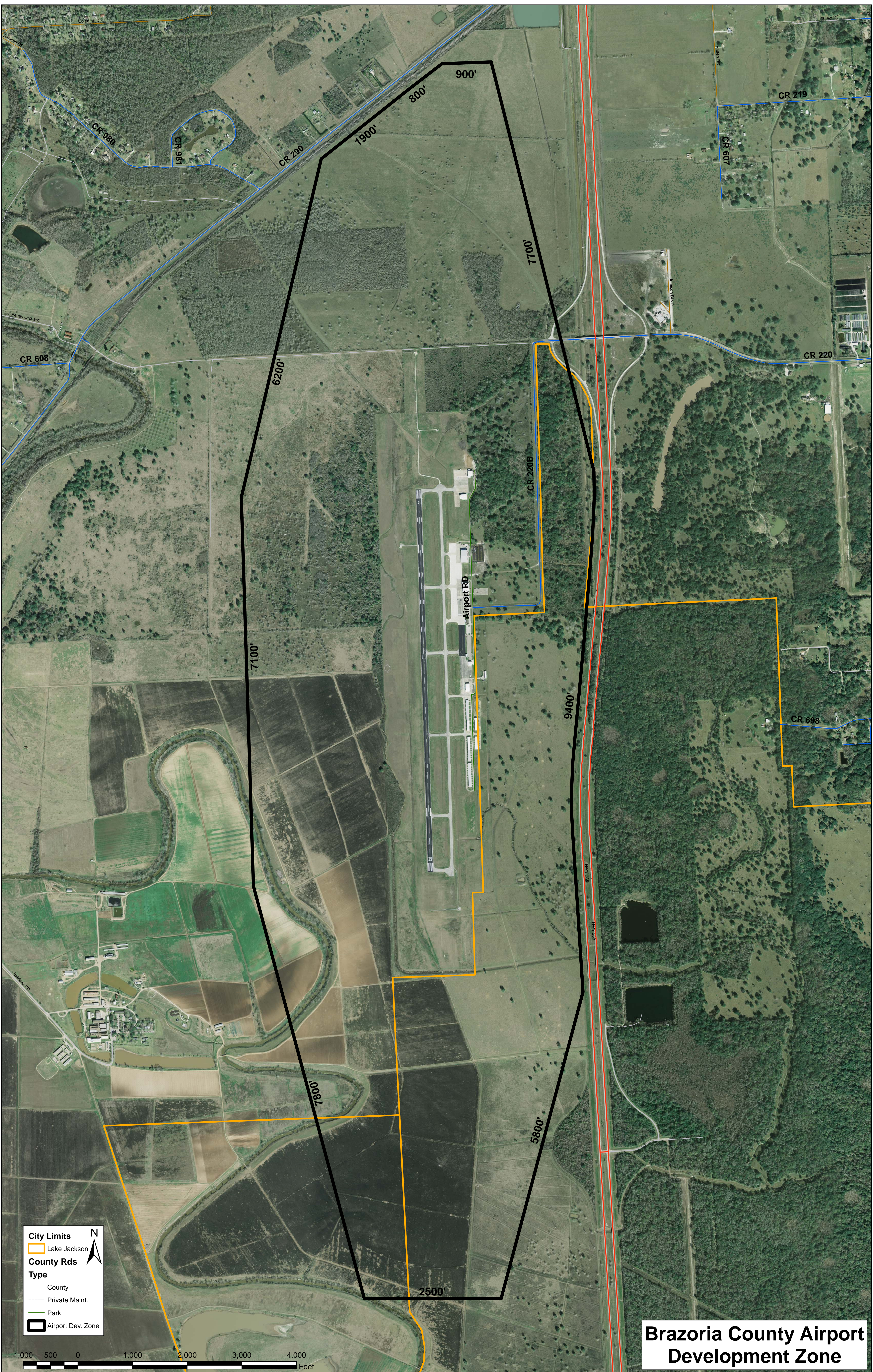
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PAUL L. COLE

X

JAMES . W. BRADFORD, JR





**City Limits**

Lake Jackson

**County Rds**

**Type**

- County
- Private Maint.
- Park
- Airport Dev. Zone



**Brazoria County Airport Development Zone**