



November 19, 2014

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TAOS COUNTY

**RE: Taos County Administrative Permit – Admin- 001-2014 Town of Taos Crosswind Runway;
Deemed Incomplete, Section 4.7 Administrative, Special Use and Major development
Compatibility Standards**

Mr. Vigil,

The Town of Taos is in receipt of your correspondence referencing the above subject.

As regards the items you have identified within that letter as necessary for the application to be deemed complete, I would like to present the following clarification to be added to our current application:

REQUIREMENT:

SECTION 4.7

Administrative, Special Use and Major Development Compatibility Standards

Section 4.7.1 Development Compatibility Standards: The following requirements shall be applied to all land uses requiring Administrative Permits, Special Use Permits or Major Development Permits under these regulations.

- A. **Use.** The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood, or the applicant shall be able to demonstrate that the development would provide a substantial benefit to, or would not have a substantial impact on the immediate neighborhood.

- B. **Visual Impact.** The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or the applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character.

RESPONSE:

- A. **Use:** *"The development shall be sensitive to and consistent with the existing traditional and historic uses in the neighborhood..."*

Unfortunately, the new Land Use regulations do not define "neighborhood". As applicants, we would argue that in the absence of any other definition, the definition of "neighborhood" for an Administrative Permit is defined by the area of notification, in that the more intense the level of review in the County Land Use Regulations, the greater the area of notification. The area of notification therefore is intended to cover the anticipated impacted area, or "affected neighborhood". Therefore, "neighborhood, for the purposes of an Administrative permit, would be the property that is the subject of the application and those properties immediately adjacent to and sharing a common border with the property lines of the proposed project.

Therefore, the standard for compliance under Section 4.7 and 4.7.1 A. and B. can only be applied to those immediately adjacent properties; not communities such as the Greater World Community across the Gorge and several miles away.

For the purposes of discussion and defending the project under Section 4.7 of the Regulations, however, we will voluntarily address "neighborhood" in an even broader sense than the above definition or even the previously County recognized neighborhood associations in proximity to the project, as we believe that understanding the history of the development of the entire Mesa west of Lower Las Colonias, east of the Gorge, north of Straight Arrow Road and including the Stagecoach and Mesa neighborhoods, and encompassing a huge region of the County, is important to understanding the development of the airport as the first commercial activity on the Mesa and the surrounding area that later developed around the airport as a direct result of access to the airport being developed, rather than the other way around.

The decision to purchase land and construct the Taos Regional Airport at its current location was made in 1964, with platting and construction occurring in 1965-67.

At that time US Highway 64 did not exist and the current road was a dirt road running to the edge of the Gorge, but the Gorge Bridge would not be built for another decade.

There were no residential neighborhoods on either the east or west side of the Gorge, which was why the airport was located there, as well as the future Taos County Regional Landfill.

The Greater World Community had not even been conceived, because there was no access from the west side except at Pilar and the old Taos Junction Bridge, which was at the end of what is now County C-110.

The publicly announced plans to develop the cross winds runway began with the purchase and condemnation of additional property in 1985, with public hearings and deeds being recorded from 1986 through 1989.

At that time, only a few scattered houses existed on the north side of what later became US Rt. 64, with no development at all to the south where Straight Arrow Road would be created to serve a series of illegal subdivisions decades later. There were no houses at all to the west of the airport, between the airport and the Gorge. Greater World, as New Mexico's first County and State approved experimental community, was still over a decade away.

According to many long-time residents, less than 15 family farms and ranches existed on Blueberry Hill Road and Lower Las Colonias Road before the airport was built.

In general, the "neighborhood" within 3 miles of the airport was populated by cattle and sheep ranching, gravel pits, dirt roads, horse trails, herds of wild Big Horn Sheep, coyotes and jack rabbits, abandoned cars, buses and mobile homes and, eventually, the Town landfill.

The point of citing the historical development of the "neighborhood" is to make it clear that the airport preceded any *approved* residential or commercial development within 2-3 miles by 20-30 years, and the planned crosswinds runway preceded any neighboring development (especially approved residential development) that exists today by over a decade.

In effect, the airport was the original, and perhaps only, publicly approved land use for that area of the County prior to the adoption of the Taos County Land Use Code in the mid to late 1990's (having been required to hold public hearings, post public notice, been challenged in court and reviewed, endorsed and approved, at minimum, by the Town Council, early County Commissions, the FAA, NM DoT and the Pueblo). Anything else on the Mesa up till that time (and a great deal afterwards) was built without any public process. Everything else came afterwards and grew around the airport, full well knowing that both the airport was there and that there was a pre-existing and publicly vetted plan for the second runway.

The airport, therefore, *is* the traditional and historic use for the immediate neighborhood (if neighborhood is defined as 2-3 square miles or less).

Additionally, the *current* established historic and traditional uses of the immediate area (or neighborhood) are mixed use predominantly industrial and commercial businesses and government services, including:

- Taos Regional Airport
- Taos Regional Landfill
- Proposed County Recycling facility
- NM DoT Highway Maintenance Facility
- S&R open sewage septic disposal pits
- Kit Carson Electric propane tank farm
- Waste Management, Inc. garbage truck and garbage bin terminal
- 10,000 Wags commercial animal kennel
- Mesa Brewing and an outdoor concert venue
- Aguirre Salvage
- Oguin's Sawmill
- RV Park
- Gravel supply yard
- Mobile Home Salvage Operation
- Blue Sky Solar Farm
- Auto and engine repair businesses
- A Pro-panel manufacturing plant
- Avis and Enterprise car rentals
- Several construction yards
- An asphalt plant
- Commercial storage units at multiple locations
- A former hydroponic store and nursery
- Off-highway residential set back a minimum of ¼ mile or greater

US Route 64 has always, from its inception, been exclusively a commercial highway corridor and the preferred location for the County's least desirable, noisiest, smelliest, most obnoxious, private and public heavy industries and services.

The highly explosive, poisonous and flammable propane farm and the toxic landfills, sewage pits and garbage trucks, chronically barking kennel dogs, and salvaged car wrecks leaking flammable and deadly pollutants like anti-freeze, brake fluid, crank case oil and gasoline are all located in this area for a reason and nearly all predated the residents that now have moved into the area because the land was extremely cheap and unregulated, due to these very uses being there.

Neither the airport nor the landfill, built decades before the residences on either side of the Gorge, advertised for people to come build next to these activities and certainly

those residential buyers and builders that chose “cheap” over “pristine” were fully aware that junk yards, landfills and airports don’t just disappear and, inevitably, expand over time.

It is important to note on the record that the majority of these loud, intrusive, explosive, polluting, dangerous and undesirable uses have been fully vetted and approved as activities and for these very locations by the County Planning Department, the County Planning Commission, the County Commission and, since 2005, the adjacent neighborhood associations that speak for those residents in the area.

Additionally, there is no better judge, according to the new County Land Use Regulations, of what is acceptable in their “neighborhood” than the County recognized neighborhood associations. All those neighborhood associations representing properties along US Route 64 have recommended or adopted zoning that restricts or discourages residential uses from being developed along the industrial highway corridor and have instead established or proposed a commercial business corridor along the highway, with a transitional buffer immediately behind it before then allowing any residential development.

These are the uses the individual neighborhoods and their duly elected representative boards, not the Town, have selected for themselves and the area.

An argument could be made on any fall morning when the smell of the asphalt plant fills the air, mixed with the odors of the landfill and sewage lagoons, dog kennels and Waste Management’s yards, the noise of construction yards, the sawmill and gravel crushing or day long outdoor rock concerts at Mesa Brewing, mixed with the congestion, noise and pollution of heavy truck and auto traffic to and from Colorado, the landfill, concerts, gravel and pavement hauling, lumber hauling from the mountains, and daily propane deliveries, that the airport is the quietest, cleanest, lowest traffic generator and least intrusive land use on the US Route 64 corridor.

Under the proposed application, *no* new structures are being proposed, there is *no* conflicting architecture or bright lights, *no* increased traffic congestion, *no* new burden on public services, *no* smoke, *no* dust, *no* fumes or odors generated, *no* increased utility or water use, *no* water contamination, and both the haul road/service road and runway have *no* height and *no* humanly perceptible length, width or bulk from ground level, making them (like the current runway) absolutely invisible to neighboring property owners. Neither the runway nor the road use water, generate trash, create sewage, overcrowding or have any reflective surfaces. *No* increased sound will be generated and, in fact, landings and take-offs will be quieter, quicker and less visible to surrounding properties (see third “Response”, below, for details).

The airport is, when compared to all other non-residential and some residential uses in the area, the least environmentally intrusive and *least* aesthetically visible land use in

the surrounding “neighborhood”, was the first land use in the adjacent area, and generates the *least* impact on the immediate “neighborhood”.

There can be no doubt that *“the development (is) sensitive to and consistent with the existing traditional and historic uses in the neighborhood”*.

RESPONSE:

- A. Use:** *“... or the applicant shall be able to demonstrate that the development would provide a substantial benefit to (the neighborhood) ... ”*

The proposed improvements will increase public safety to the airport and the surrounding neighborhood, as well as reducing the current level of noise and visual disturbance.

The upgrading and installation of new air control and air safety systems at the airport as part of the overall planned safety improvements will provide better tracking if an aircraft is off course or lost, or if a flight violates air corridors laid out for pilots, and will provide better instrumentation landings in bad weather, as well as will reducing the likelihood of crashes that would pose a risk to the airport and surrounding neighborhoods.

Additionally, by providing a longer runway, aircraft departing will have to spend less time and therefore will create less noise revving or powering the aircraft engines (whether jet or propeller driven) to build up power before take-off and can use a steeper power glide in their approach, using similarly lower power settings to land. Because they will be coming in at a higher angle of approach and higher altitude over any development below, the new flight and departure approaches will reduce the visibility and sound of the aircraft to those on the ground below the flight path.

The longer runway and corrected angle to allow for take-offs and landings into the prevailing wind, when required, reduces the potential for aircraft accidents both at the airport and over developed areas, increasing safety both to the pilots and their passengers, as well as adjacent properties.

The longer, safer runway will ensure that emergency aircraft (both fixed wing and helicopters) will be able to provide more dependable and predictable, as well as safer, medical transport, medical evacuations, fire spotting and fire suppression, law enforcement, search and rescue operations, transport from accidents and rural areas, more frequently and safely throughout the County.

Having safer, more dependable access will also increase the likelihood of establishing reliable air shuttle and charter services for business travel, tourism, recreational aviation

and commercial carrier connections to major airports, resulting in greater economic benefits to the community through expanded investment, business relocation and tourism based on dependable and predictable access, not increased flights.

Regrettably, the worst crosswinds and adverse flying conditions occur in Taos during the peak tourist seasons which, not coincidentally, also are our worst time periods for wildfires, auto accidents and search and rescue; all involving air support services.

Currently, because of the altitude of Taos and the resulting thin air, planes have trouble getting sufficient "lift" and must carry less weight, meaning aviation fuel sales and resulting local revenues are limited, and arriving and departing flights must carry less weight (cargo and passengers), which requires that those flights then make a second stop to refuel at lower altitudes before continuing, making commercial and emergency air travel more costly, more time consuming and less practical for Taos. While the primary purpose of the longer crosswinds runway was for public safety, an unintended side benefit could be that a realigned, longer runway could also address these problems faced by potential commercial or charter aircraft, making Taos more likely to be able to attract and provide affordable and reliable air service, resulting in greater convenience for locals and making us a more attract destination for tourists, second home owners and international high tech industries and higher paying jobs, such as software development, electronics, communications, advertising and others.

In summary, due to improvements proposed in the development application for the airport there will be increases in airport safety, more reliable and accessible public safety, firefighting, search and rescue, and medical services to the community, less neighborhood noise from arriving and departing aircraft, decreased fuel usage for powered decent and departures, increased reliability and convenience for local pilots, greater monitoring of aircraft, and increased affordability and likelihood of being able to initiate and retain commercial and charter air service, as well as the convenience that would result for locals and tourists.

Therefore, "the applicant (is) able to demonstrate that the development would provide a substantial benefit to (the neighborhood)".

RESPONSE:

- A. Use:** *"... or (the development) would not have a substantial impact on the immediate neighborhood".*

The proposed runway is designed to handle exactly the same maximum size and identical type aircraft as the current runway, meaning that the aircraft capable of using the new runway will be no larger, heavier or more powerful than those already landing at the airport.

While much has been made of the difference in stated design weight capacity (20,000 lbs. for the current runway versus 60,000 lbs. for the new runway), the old runway was rated by the FAA at 24,000 lbs. (not 20,000) based on the length of the runway and what the total design would handle within a maximum safety window, as well as to maximize the life of the runway given the Town's limited resources as a small airport. The 20,000 lbs. was a recommended *operating* capacity, not the actual load bearing capacity of the runway pavement. The operating capacity is a listed capacity for insurance liability purposes, in that if an aircraft lands with a gross weight in excess of that load limit and does damage to the runway, they can be held responsible for any repair costs.

Obviously, a municipality responsible for maintain an airport with local tax dollars would want as low a practical operating capacity to be listed as possible in order to shift as much liability onto the pilots using the field as possible, as opposed to the taxpayers.

It is critical to note that a listed runway operating capacity does not in any way actually restrict or prohibit any aircraft of any weight from actually using the runway, even where they exceed the posted limits.

A subsequent coring of the existing runway and subsequent stress and materials analysis testing by the U.S. Air Force on behalf of the FAA in the mid 90's increased the actual *maximum payload* capacity to 50,000 lbs.

The existing runway was engineered to carry a 30 passenger Global Express Bombardier commercial short shuttle jet aircraft, with a gross flight and landing weight of 60,000 lbs. This was based on the maximum weight limits required for what would be the most likely and practical commercial aircraft in the United States available and designed for service for short regional commercial commuter flights in communities such as Taos.

The new runway is designed for exactly the same model, size and weight aircraft, so there is no truth to the rumors that the new runway is being built to handle large commercial or military aircraft. The capacity of the airport will be exactly the same. The only actual change is that just that 5% of flights will land or depart from a different runway during adverse weather where crosswind conditions or instrument landing conditions require it.

Ironically, Tuesday, November 18th two of the exact same Global Express Bombardier aircraft (though different models and years) that the current and future runway are designed for landed simultaneously and were parked at the airport for the day, bringing 30 passengers and equipment from California movie studios to scout locations for the 2016 production of "Batman versus Superman", proving that the current *design* capacity of the existing runway, taxiway and apron is already able to handle the very aircraft the new runway is designed for and, in fact, can handle two at once.

Therefore, any argument that the new runway is being built because it is somehow necessary to accommodate larger and greater numbers of commercial and/or military aircraft, resulting in more noise, more air traffic and more impact, was factually proven to be wrong.

We can already accommodate the same large aircraft planned for in the future, and in multiples.

I have attached a photo of the aircraft that landed to prove the point.

As regards the claim that there will be increased noise and other disturbances as a result of the larger aircraft, the simultaneous landing of these same dual 30 passenger commercial jet engine aircraft (the largest aircraft that the old and new runways can handle) yesterday resulted in no calls to the Town, County, airport, neighborhood associations or police complaining about the landings or departures. In fact, no one except the airport staff even knew they had arrived, disproving the claim entirely.

It should also be noted that both jets came to and departed Taos using the same flight paths that are proposed for the new runway and that the objectors claim will cause increased disruption to the adjacent property owners. It is extremely rare to have one of these large commercial jets land at Taos, no less two simultaneously.

To be blunt, this factual real world field test (rather than mere hypothetical speculation by the opposition) has absolutely disproved all the speculation and assertions of the objectors.

With regards to concerns that new flights generated by the proposed project will engage in "fuel dumping", contaminating drinking water, the FAA has previously responded directly in writing to those concerned citizens with a letter that stated that no small fixed wing aircraft (80% of all flights at the airport), no rotary aircraft (helicopters) (10% of all flights at the airport), no small charter commercial aircraft (the largest aircraft we can accommodate) and only some large commercial airliners (which we can't accommodate and that are by federal and international regulations are not permitted to use uncontrolled airports, such as Taos) have the physical ability to "dump fuel". Further, they assured that it is a procedure that is only permissible under the most severe life threatening critical emergency situations, such as an imminent crash, and that safety procedures dictate that the fuel is dumped at as high an altitude and as far from the ground before impact as possible for the safety of those in the plane. Additionally, they stated that the industry preferred procedure and federal regulations for non-imminent catastrophic situations (such as landing gear failure) is to circle until all fuel is used up, not dump fuel, and that any of the highly evaporative aviation fuel that was released would vaporize almost instantaneously before ever reaching the ground. Lastly, they stated that from a common sense standpoint, it is simply economically prohibitive for anyone, given the high cost of aviation fuel, to arbitrarily

chose to dump fuel and the practice is not considered by either the FAA or EPA to pose any environmental risk.

In summary, even if we could accommodate aircraft that could jettison aviation fuel, which we can't, it would be illegal, cost prohibitive, would never reach the ground, and would pose no risk to anyone or anything.

The risk of an aviation fuel spillage as an anticipated occurrence, even in refueling on the ground, is infinitely negligible, highly regulated, and automatically reportable, and reviewed by multiple federal agencies in every instance that it does occur. It is infinitely less likely than the everyday risk of spilled gasoline at the average corner gas station, which happens daily throughout the Town and we have never denied a gas station, even in environmentally sensitive and areas far more densely and highly populated than the airport, simply because someone *could* spill gas or there *could* be an accident someday.

As regards the argument that the airport "expansion" will increase air traffic and resulting adverse impacts on the "neighborhood", the federal EIS contracted by the FAA concluded that in the booming economy of the 90's and early 2000's (the EIS took 12 years to complete), the maximum increase in air traffic projected for the airport (whether the new runway is built or not) would be 5% in the first 2 to 3 years, leveling off to a modest 2% per year afterwards through 2020.

It is anticipated that the new runway will only be used in adverse weather or emergency landings that require instrument landings or under cross winds conditions. This means that less than 5% of air flights will actually need to use the new runway or use a flight approach other than what is currently being used.

Currently the glide slope for the airport (the steepness and height of the angle of take-off and landing) is 2% and 1,000 feet. There have been absolutely *no* complaints from any property owners and residents surrounding the airport during its 46 year history, despite this very low fly over height when approaching or leaving the airport that is a direct result of our high altitude and short runway.

The glide slope for the new runway will be 3%, with a height of *at least* double the current runway at 2,000 feet. This means that arrivals and departures will be less visible, visible for a shorter period as they fly over, will fly over at double the current altitude and with lower power settings required, which will be 50% quieter and less intrusive than current landings and take-offs, both on the runway and in the air overhead.

It should also be clarified that the flight patterns required by the FAA for the new runway are not the result of the runway being installed, *per se*, but are primarily the result of decades long lawsuits and inter-governmental negotiations between FAA, the Pueblo, NM DoT, NM State Office of Historic Preservation and other parties to ensure that Pueblo air space over the sacred Blue Lake and the UNESCO World Heritage Site

and any impact that currently exists or that might in the future is not only minimized, but eliminated.

In other words, these air corridor adjustments and restrictions identified with the new runway were going to take place (and, in fact, are already in place and are being enforced) whether the new runway is built or not. Stopping the new runway will not undo these federally mandated changes that are now being codified in Congressional legislation by the U.S. Senate to make them international law.

Those measures, including increased instrumentation, flight restrictions, flight monitoring and notification, etc. required by the intergovernmental agreements are already in place and have been in place for over a year and are enforced by an FAA installed million dollar electronic tracking and monitoring system.

Any increased disturbances that surrounding neighborhoods claim will occur as a result of the new proposed runway and changes to flight patterns should have already been occurring for more than a year, with the exception of one new glide path being instituted for emergency and severe weather instrument landings, which FAA identifies as being 5% or less of all fixed wing flights (not helicopters) of likely the lightest, least intrusive and most weather affected aircraft. Large and heavy jets are the least impacted by wind shear and crosswinds. Yet, there have been no such complaints. In fact, the general public has noticed no change at all in air pattern or noise.

Therefore, whether there will be any adverse impact on the neighborhoods is not a matter of debate or speculation, it has been disproved as a matter of simple observation and fact over the course of the past year.

The 12 year comprehensive federal EIS by the most capable and competent professionals in the field and federal and state agencies charged with protecting wildlife, air and water quality, historic structures/sites and cultural traditions, public and air safety, have all said that there will be *no* adverse impacts on the Monument, the Pueblo, the water, the wildlife, the noise levels, ground and air traffic and the surrounding neighborhoods.

The fact that the very type of jets predicted by opponents to start coming and bring these new adverse impacts are already landing at the airport without being detected and that the very flight paths opposed by the opposition (with the exclusion of the aforementioned 5% of bad weather and emergency landings) are already being flown and have gone undetected prove that there is not now nor will there be any increased or negative impacts from the new runway and that:

"The proposed project will not have a substantial impact on the immediate neighborhood".

RESPONSE:

- B. **Visual Impact.** *"The development shall be sensitive to and consistent with the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood ..."*

No new structures are being proposed, there is no conflicting architecture (or any architecture) or bright lights, no increased traffic congestion, burden on public services, no smoke, dust, odors, or water contamination, and both the haul road/service road and runway have zero height and no perceptible length, width, density or bulk from the ground, making them (like the current runway) absolutely invisible to neighboring property owners. Neither the runway nor the road use water, generate trash, create sewage, overcrowding or have any reflective surfaces. No increased sound will be generated and, in fact, landings and take-offs will be quieter, quicker and less visible to surrounding properties (see third response for details).

Even a brief drive-by tour of the 64 corridor will reveal that there *is no* "neighborhood standard" of architecture, height, bulk, density, scale or historical character of any kind. It is a desert graveyard of abandoned vehicles and mobile homes, random buildings and activities with no organized planning or predictability, and an industrial zone of undesirable, hazardous and dangerous uses.

In short, the perfect place for an airport.

Is there any location in the County that would be more appropriate? If not, the project must be administratively approved.

The fact that the airport already exists at this location (and has operated for decades successfully without community complaints and has, to the contrary, actually been increasingly surrounded by new residential development over that time), and is being considered administratively, implies a recognition of the use and its acceptability at this location, as well as a presumption of permissibility, with appropriate review and possible conditions.

Neighborhood compatibility should not be an issue. The residences that now exist in the area have over time been self-imposed by their owners or developers as a new land use on the pre-existing airport, including the long proposed cross winds runway. The airport is not imposing a new activity or new heretofore unannounced and unplanned expansion onto the residential property owners. These sparse residents were aware of these plans at the time they purchased their property at discount and located there.

The airport is, when compared to all other non-residential and some residential uses in the area, the least environmentally intrusive and least aesthetically visible land use in the surrounding "neighborhood", was the first land use in the adjacent area, and generates the least impact on the immediate "neighborhood".

The development (is) as much as possible "sensitive to" and absolutely consistent with whatever the architectural design, scale, density, bulk, building height, historical character, and orientation of the existing properties in the neighborhood, or lack thereof, exists".

B. Visual Impact. *"The applicant shall be able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character."*

The proposed alternative use of the property, as evidenced by the surrounding uses permitted by the County over time, is either unproductive dry land covered with sage brush with a gravel pit or solar farm, or an expansion of the landfill that is creating toxic leachate and odors, expansion of the explosive propane farm, new salvage yards of wrecked cars leaking toxic fluids, or a bar with insufficient parking and holding outdoor 120 decibel rock concerts on weekends and summer evenings.

By the very presence of the activities that exist in the area and that have been approved and grown up around the airport that preceded all of them, as well as the other possible alternative "highest and best uses" the property could be put to, given its "neighbors" and location,

"The applicant (is) able to demonstrate that the alternative being proposed is suitable to the land and the neighborhood character."

I would welcome the opportunity at any time to discuss the application with you or to answer any questions with regards to our responses within this letter, at your convenience.

Sincerely,

Rick Bellis

Rick Bellis
Town Manager
Acting Director, Planning, Community and Economic Development

cc: Floyd Lopez, Town Attorney
French Espinosa, Public Works Director
Mayor Dan Barrone
Taos Town Council