

# City of Brooklyn Park Planning Commission Staff Report

<b>Agenda Item:</b>	5.4	<b>Meeting Date:</b>	February 14, 2024
<b>Agenda Section:</b>	Public Hearings	<b>Originating Department:</b>	Community Development
<b>Resolution:</b>		<b>Prepared By:</b>	Erin McDermott, Associate Planner
<b>Ordinance:</b>	X		
<b>Attachments:</b>	1	<b>Presented By:</b>	Erin McDermott, Associate Planner
<b>Item:</b>	Zoning Code Text Amendment: 152.5XX Crystal Airport Zoning Overlay		

## Proposed Action:

MOTION \_\_\_\_\_ SECOND \_\_\_\_\_ TO RECOMMEND APPROVAL OF AN ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE OF ORDINANCES PERTAINING TO THE AIRPORT OVERLAY DISTRICT.

## Staff Recommendation:

Staff recommends approval of proposed ordinance changes.

## Overview:

In September 2021 the City Council adopted Resolution #2021-132 joining the JAZB and appointing two members to represent Brooklyn Park, City Councilmember Wynfred Russell (replaced in 2023 by Councilmember Maria Tran) and Planning Director Paul Mogush. In 2023, property owners received notification from the MAC regarding the proposed updated ordinance with an opportunity to testify at a public hearing before the Crystal Airport Joint Airport Zoning Board (JAZB). On November 8, 2023, the JAZB adopted the ordinance, following some changes in response to public comment.

Minnesota Statute 360.036 was adopted in 1983, which established a Joint Airport Zoning Board (JAZB) comprised of the Metropolitan Airports Commission (MAC) and the communities surrounding the Crystal Airport enacted a zoning ordinance intended to ensure the safety of airport operations by regulating land uses and building height near the runways. On July 28, 2021, the MAC notified the City of Brooklyn Park of an opportunity to join a newly constituted JAZB for the purpose of updating the airport zoning ordinance. There are two factors motivating the ordinance update. First, the legislature enacted changes to airport zoning statutes in 2019 that allow more flexibility in airport zoning ordinances than was allowed in 1983. Second, the MAC completed several changes to the layout of Crystal Airport in 2020, including lengthening the main runway and converting the parallel runway into a parallel taxiway.

The City of Brooklyn Park is now adopting these standards into the Zoning Ordinance in compliance with state law. The content of this text amendment contains the criteria previously established by Minnesota Statute 360.063, Subd. 3(2)(b) for which all current developments are being reviewed.

In addition to the adoption of the text approved by the JAZB, this zoning text amendment also formally establishes the Airport (AP) Overlay district which will be added as part of the upcoming Zoning Map amendment.

Technical Changes

The text amendment adds language to Code Sections 152.5XX and 152.5XX in which it establishes the AP Overlay, and articulates setbacks and guidelines for developed lots with text that provides in depth guidance for development and land uses within the AP Overlay district.

- Maximum structure height is articulated for each property within the AP Overlay.
- Land use restrictions are established.
- The FAA approval process for land use requests is outlined within this ordinance, as well as variance and appeal processes established.

This is a very technical ordinance, which is necessary to meet the requirements of state statute and the needs of aviation safety. The ordinance will have minimal practical effect on properties near the airport, because in most cases the maximum height of structures allowed by the airport ordinance exceeds the maximum height requirement of the underlying zoning. The land use restrictions of the airport ordinance are similarly more permissive than the underlying City of Brooklyn Park zoning.

**Budgetary/Fiscal Issues:**

Not applicable.

**Alternatives to Consider:**

1. Approve the text amendment as presented.
2. Approve the text amendment with modifications.
3. Decline to approve the text amendment.

**Attachments:**

5.1A Zoning Code Text Amendment: Crystal Airport Zoning Ordinance

**152.5XX**

**A. PURPOSE AND AUTHORITY.** The **CRYSTAL Airport Joint Airport Zoning Board**, created and established by joint action of the **Metropolitan Airports Commission and the Cities of Crystal, Brooklyn Park, Brooklyn Center, Minneapolis, New Hope, and Robbinsdale**, pursuant to the provisions and authority of **Minnesota Statutes § 360.063**, hereby finds and declares that:

- (1) An Airport Hazard endangers the lives and property of users of the Airport and property or occupants of land in its vicinity, and also may reduce the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airport and the public investment therein.
  - (A) The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Airport.
  - (B) For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.
  - (C) The prevention of these Airport Hazards should be accomplished, to the extent legally possible, by the exercise of police power without compensation.
  - (D) The elimination or removal of existing land uses or their designation as nonconforming uses is not in the public interest and should be avoided whenever possible, consistent with reasonable standards of safety.
  - (E) In addition, the social and economic costs of disrupting land uses around the Airport often outweigh the benefits of a reduction in Airport Hazards, requiring a balance between the social and economic costs to surrounding communities and the benefits of regulation.
  - (F) Preventing the creation or establishment of Airport Hazards and eliminating, removing, altering, mitigating, or marking and lighting of existing Airport Hazards are public purposes for which political subdivisions may raise and expend public funds, levy assessments against land, and acquire land and property interests therein.

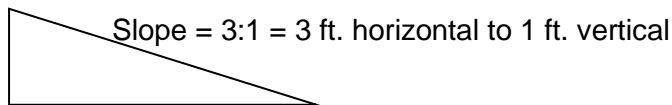
**B. TITLE AND SHORT TITLE.** This ordinance shall be known as the “**Crystal Airport Zoning Ordinance.**”

**C. DEFINITIONS AND RULES OF CONSTRUCTION**

- (1) **Definitions.** As used in this Crystal Airport Zoning Ordinance, unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall have the meanings indicated. All words and phrases not defined shall have their common meaning.
  - (A) **Airport.** “Airport” means Crystal Airport located in Hennepin County, Minnesota.
  - (B) **Airport Boundary.** “Airport Boundary” means the boundary shown on Exhibit A – Airport Boundary, attached hereto and made a part hereof.
  - (C) **Airport Hazard.** “Airport Hazard” means any Structure, Tree, or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport; and, any use of land that is hazardous to Persons or property because of its proximity to the Airport.
  - (D) **Airport Zoning Permit.** “Airport Zoning Permit” means zoning permits as required under Section E(3).
  - (E) **Airspace Surfaces.** “Airspace Surfaces” means the surfaces established in Section D(1).

- (F) **Airspace Zones.** “Airspace Zones” means the land use zones established in Section D(1).
- (G) **Board of Adjustment.** “Board of Adjustment” means the body established in Section L.
- (H) **Commissioner.** “Commissioner” means the Commissioner of the Minnesota Department of Transportation or, if either the position of Commissioner or the Minnesota Department of Transportation shall no longer exist or serve its present functions, such successor state official or officials or entity or entities as shall either singularly or collectively perform or serve such functions.
- (I) **Crystal Airport Zoning Map.** “Crystal Airport Zoning Map” means the Crystal Airport Zoning Map as defined in Section F(3).
- (J) **Effective Date.** “Effective Date” means the effective date set forth in Section M.
- (K) **Existing.** “Existing” means the current layout of the airport environment, including alignment, location, and length of each runway at Crystal Airport at the time this Crystal Airport Zoning Ordinance on the Effective Date.
- (L) **FAA.** “FAA” means the Federal Aviation Administration or, if the Federal Aviation Administration shall no longer exist or serve its present functions, such successor federal entity or entities as shall either singularly or collectively perform or serve such functions.
- (M) **FAA 7460 Obstruction Evaluation.** Established FAA process for conducting aeronautical studies conducted under the provisions of Title 14 CFR, Part 77 (for proposed construction or alteration) or Federal Aviation Act of 1958 (for existing structures), or any successor to this process.
- (N) **Lot.** “Lot” means a designated parcel, tract, or area of land established by plat or subdivision, or otherwise permitted by law.
- (O) **Nonconforming Structure.** “Nonconforming Structure” means any Structure in existence in any Airspace Zone or Land Use Zone but not conforming to the provisions of this Crystal Airport Zoning Ordinance on the Effective Date.
- (P) **Person.** “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- (Q) **Runway.** “Runway” means any existing surface of the Airport which is specifically designated and used to be used for the landing and/or taking off of aircraft. The individual Runways at the Airport are defined in this Crystal Airport Zoning Ordinance based on the compass heading of landing and departing aircraft.
- (R) **Runway 14-32.** “Runway 14 32” means the existing 3,750-foot non-precision primary runway. The Runway 14 end is within the City of Brooklyn Park, and the Runway 32 end is within the City of Crystal.
- (S) **Runway 6L-24R.** “Runway 6L-24L” means the existing 2,500-foot visual crosswind runway. Both the Runway 6L and 24R ends are within the City of Crystal.
- (T) **Runway 6R-24L.** “Runway 6R-24L” means the existing 1,669-foot visual crosswind runway. Both the Runway 6R and 24L ends are within the City of Crystal.
- (U) **Runway Protection Zone.** “Runway Protection Zone” means a zone mandated by FAA regulations that is longitudinally centered on the extended centerline at each end of Runways 14-32, 6L-24R and 6R-24L, whose inner edge is at the same width and elevation as, and coincides with, the end of the Primary Surfaces for Runway 14-32 (500 feet), Runway 6L-24R (250 feet), and Runway 6R-24L (250 feet). The Runway 14-32 protection zone extends outward a horizontal distance of 1,000 feet, expanding uniformly to a width of 700 feet. Runways 6L-24R and 6R-24L have protection zones extending outward a horizontal distance of 1,000 feet, expanding uniformly to a width of 450 feet.
- (V) **Land Use Zones.** “Land Use Zones” means the land use zones established in Section E(1).

- (W) **School.** “School” means any private or public educational institution for people in kindergarten through grade 12 and any private or public day care or pre-school facility that enrolls more than 50 children.
- (X) **Slope.** “Slope” means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



- (Y) **Structure.** “Structure” means anything anchored, attached, built, constructed, erected, gathered, located, placed, or piled on the ground or in or over a water body, whether temporary or permanent, moveable or immovable, including antennae, buildings, canopies, cranes, decks, derricks, docks, edifices, equipment, fences, overhead transmission lines, patios, piers, piles, ponds, posts, roadways, signs, smokestacks, towers, utility poles, wires, and anything attached to any of the foregoing either temporarily or permanently.
- (Z) **Tree.** “Tree” means any object of natural growth.
- (AA) **Zoning Administrator.** “Zoning Administrator” means the public official in each affected municipality as set forth in Section K(2).
- (2) **Rules of Construction.** In the construction of this Crystal Airport Zoning Ordinance, the following rules shall be observed and applied, except where the context clearly indicates otherwise.
  - (A) **Computing Time.** In computing the period of time within which an act may or must be done, the first calendar day from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday.
  - (B) **Conflicts Between Ordinance Provisions.** If a provision of this Crystal Airport Zoning Ordinance conflicts with any other provision of this Crystal Airport Zoning Ordinance, the more restrictive provision shall prevail.
  - (C) **Height.** “Height” shall be expressed as elevation in feet above Mean Sea Level, North American Vertical Datum, 1988 Adjustment, except in reference to maximum construction height without an Airport Zoning Permit when it shall be expressed as distance in feet above ground shown on the Maximum Construction Heights Without Permit Plates in the Crystal Airport Zoning Map.
  - (D) **Including, Not Limited To.** The word “including” means including but not limited to.
  - (E) **Land To Include Water Surfaces And Bodies.** The word “land” shall include water bodies and surfaces for the purpose of establishing Airspace Zones and Land Use Zones.
  - (F) **May, Permissive.** The word “may” is permissive.
  - (G) **Shall, Mandatory.** The word “shall” is mandatory and not discretionary.
  - (H) **Singular And Plural.** The singular shall include the plural, and the plural the singular.
  - (I) **Tense.** The present tense shall include the future.

**D. AIRSPACE OBSTRUCTION ZONING**

- (1) **Airspace Surfaces And Zones.** In order to carry out the purpose of this Crystal Airport Zoning Ordinance as set forth in Section I., the following Airspace Surfaces and Airspace Zones are hereby established, subject to the airspace zoning limits in Section F(1).
  - (A) **Primary Surface.** An imaginary surface longitudinally centered on each Runway extending 200 feet beyond each end of Runways 14-32, 6L-24R, and 6R-24L. Runway 14-32 has uniform width of 500

feet, while Runways 6L-24R and 6R-24L have a uniform width of 250 feet. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the Runway centerline.

- (B) **Primary Zone.** All that land which lies directly under a Primary Surface.
- (C) **Horizontal Surface.** An imaginary surface that is 1,019.3 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the Primary Surface of each Runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet for Runways 14-32, 6L-24R, and 6R-24L.
- (D) **Horizontal Zone.** All that land which lies directly under the Horizontal Surface.
- (E) **Conical Surface.** An imaginary surface extending upward and outward from the periphery of the Horizontal Surface at a Slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the Horizontal Surface.
- (F) **Conical Zone.** All that land which lies directly under the Conical Surface.
- (G) **Approach Surface.** An imaginary surface longitudinally centered on the extended centerline at each end of Runways 14-32, 6L-24R, and 6R-24L. The inner edge of this surface is at the same width and elevation as, and coincides with, the end of the Primary Surface. For Runways 14-32, 6L-24R, and 6R-24L, this surface inclines upward and outward at a Slope of 20 to 1 for a horizontal distance of 5,000. For Runway 14-32, the outer width of this surface is 2,000 feet. For both Runways 6L-24R and 6R-24L, the outer width of this surface is 1,250 feet.
- (H) **Approach Zone.** All that land which lies directly under an Approach Surface.
- (I) **Transitional Surface.** An imaginary surface extending upward and outward at right angles to the centerline and extended centerline of Runways 14-32, 6L-24R, and 6R-24L at a Slope of 7 to 1 from both sides of each Primary Surface and from both sides of each Approach Surface of Runway 14-32, 6L-24R, and 6R-24L until it intersects the Horizontal Surface or the Conical Surface.
- (J) **Transitional Zone.** All that land which lies directly under a Transitional Surface.
- (2) **Height Restrictions.** Except as otherwise provided in this Crystal Airport Zoning Ordinance, and except as necessary and incidental to Airport operations, the following height restrictions shall apply. Where a Lot is beneath more than one Airspace Surface, the height of the more restrictive (lower) Airspace Surface shall control.
- (A) **Structures.** No new Structure shall be constructed or established; and no existing Structure shall be altered, changed, rebuilt, repaired, or replaced in any Airspace Zone so as to project above any Airspace Surface. Nor shall any equipment used to accomplish any of the foregoing activities be allowed to project above any Airspace Surface.
- (B) **Trees.** No Tree shall be allowed to grow or be altered, repaired, replaced, or replanted in any Airspace Zone so as to project above any Airspace Surface. Nor shall any equipment used to accomplish any of the foregoing activities be allowed to project above any Airspace Surface.
- i. **Public Nuisance; Order.** If the whole or any part of any Tree shall be determined to be an Airport Hazard by the FAA, or any successor entity, after proper investigation, the Zoning Administrator may issue an order in writing for the owner or owners, agent or occupant of the property upon which such hazardous tree is located, to forthwith cause such hazardous tree, or portion thereof if the removal of a portion will remove the hazard, to be taken down and removed.
  - ii. **Notice.** Said order is to be mailed to the last known address of the owner, agent or occupant and shall be accompanied by a notice setting forth the authority to remove such hazardous Tree at such owner's, agent's or occupant's expense in the event such owner, agent or occupant fails to comply with or file a notice of appeal from said order within 10 days of mailing. The notice shall include instructions for filing a notice of appeal from said order.
  - iii. **Removal.** If within 10 days after said order has been mailed, as above provided for, the owner or

owners, agent or occupant of the property upon which such hazardous Tree is located neglects or refuses to comply with said order, or has failed to file a notice of appeal from said order with the Zoning Administrator, then the Administrator or its designee(s) may enter upon said premises and take down or remove said tree or portion thereof declared to be hazardous, and to do any and all things which in his opinion may be necessary for the protection of life, limb or property.

- iv. **Assessment of Expense.** If, after the notice hereinbefore provided for has been given, the owner, agent or occupant has failed to remove such hazardous tree or portion thereof, and it becomes necessary for the Zoning Administrator to remove same, the Zoning Administrator or its designee shall mail a statement of the expense of such removal to the owner, agent or occupant of the property from which such tree or portion thereof has been removed, and if within 30 days therefrom the owner, agent or occupant has not remitted to the Zoning Administrator for the expense incurred by the Zoning Administrator in said removal, the Zoning Administrator or its designee may forthwith recover the amount of such expense from the owner or owners of said property in any civil court of competent jurisdiction, in the manner provided by law.

- (3) **FAA 7460 Obstruction Evaluation.** All construction of new Structures or alteration of existing Structures in an Airspace Zone shall comply with the requirements for filing notice to the FAA under the FAA 7460 Obstruction Evaluation process.

## **E. LAND USE ZONING**

- (1) **Land Use Zones.** In order to carry out the purpose of this Crystal Airport Zoning Ordinance, as set forth in Section A., the following Land Use Zones are hereby established, subject to the land use zoning limits in Section F(2).

- (A) **Land Use Zone 1.** Designated land, the extents of which are shown in Exhibit B. Land Use Zone 1 overlies the Runway Protection Zones.
- (B) **Land Use Zone 2.** All land enclosed within the perimeter of the Horizontal Zone, as shown in Exhibit C, except that land within Land Use Zone 1.

- (2) **Land Use Restrictions.**

- (A) **General Restrictions.** Subject at all times to the height restrictions set forth in Section D(2). and the FAA 7460 Obstruction Evaluation process, no use shall be made of any land in any of the Land Use Zones that creates or causes interference with the operations of radio or electronic facilities at the Airport or with radio or electronic communications between Airport and aircraft, makes it difficult for pilots to distinguish between Airport lights and other lights, results in glare in the eyes of pilots using the Airport, impairs visibility in the vicinity of the Airport, is deemed a "hazard" to air navigation by FAA or MNDOT as part of an FAA 7460 Obstruction Evaluation, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
- (B) **Land Use Zone 1 Restrictions.** Subject at all times to the height restrictions set forth in Section D(2). and to the general restrictions contained in Section E(2)(1), areas designated as Land Use Zone 1 for each end of Runways 14-32, 6L-24R, and 6R-24L shall contain no buildings, exposed high-voltage transmission lines, or other similar land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together a dense, confined assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, wildlife habitat, light outdoor recreation, cemeteries, roadways and vehicle parking, railroads, and other approved aeronautical uses. Where Land Use Zone 1 overlies the Runway Protection Zone, land uses and Structures within the Runway Protection Zone will be governed by Federal laws and regulations or by FAA advisory circulars, orders, or guidance.
- (C) **Land Use Zone 2 Restrictions.** No land use in Land Use Zone 2 shall violate the height restrictions set forth in Section D(2). or the general restrictions contained in Section E(2)(1).

## **F. AIRPORT ZONING LIMITS AND CRYSTAL AIRPORT ZONING MAP**

- (1) **Airspace Zoning Limits.** Exhibit D – Airport Boundary and Airspace Zoning Limits and Exhibit E – Airport Boundary and Airspace Contours, attached hereto and made a part hereof, show these limits.
- (2) **Land Use Zoning Limits.** Exhibit F – Airport Boundary and Land Use Zoning Limits, attached hereto and made a part hereof, shows these limits.
- (3) **Crystal Airport Zoning Map.** The locations and boundaries of the Airspace Surfaces, Airspace Zones, Land Use Zones, and the Maximum Construction Heights without an Airport Zoning Permit established by this Crystal Airport Zoning Ordinance are set forth on the Crystal Airport Zoning Map consisting of 102 plates – Airspace Zones, Plates A-A2 to A-F6; Maximum Construction Heights Without Permit, Plates MCH-A2 to MCH-F6; and Land Use Zones, Plates SZ-A2 to SZ-F6 prepared by the Metropolitan Airports Commission, attached hereto and made a part hereof. These plates, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, heights, data, surface and zone boundaries, and other information thereon, shall be and the same are hereby adopted as part of this Crystal Airport Zoning Ordinance.

#### **G. NONCONFORMING USES**

- (1) **Crystal Airport Zoning Ordinance.** The provisions of this Crystal Airport Zoning Ordinance shall not be construed to require the removal, lowering, other change, or alteration of any Nonconforming Structure or Tree, or otherwise interfere with the continuance of any Nonconforming Use. Nonconforming Structures and Nonconforming Uses are permitted under this Crystal Airport Zoning Ordinance, subject to the provisions in Section H. (Airport Zoning Permits) and Section I. (Variances). Nothing herein contained shall require any change in the construction, alteration, or intended use of any Structure, the construction or alteration of which was begun prior to the Effective Date, and was diligently prosecuted and completed within 2 years of the Effective Date.

#### **H. AIRPORT ZONING PERMITS**

- (1) **Permit Required.** The following activities shall not take place on a Lot in any Airspace Zone or Land Use Zone unless an Airport Zoning Permit shall have been granted therefore by the Zoning Administrator for the jurisdiction in which the Lot is located.
  - (A) **Existing Structures.** Except as specifically provided in Section H(2), no existing Structure shall be altered, changed, rebuilt, repaired, or replaced.
  - (B) **New Structures.** Except as specifically provided in Section H(2), no Structure shall be newly constructed or otherwise established.
  - (C) **Nonconforming Structures.** No Nonconforming Structure shall be replaced, substantially altered or repaired, or rebuilt.
- (2) **Exception To Permit Requirement.**
  - (A) **Maximum Construction Height Without A Permit.** No Airport Zoning Permit shall be required for an existing Structure to be altered, changed, rebuilt, repaired, or replaced on a Lot, or for a new Structure to be constructed or otherwise established on a Lot, if the highest point on the Structure or on any equipment used to accomplish any of the foregoing activities, whichever is higher (measured in feet from curb level or from natural grade at a point 10 feet away from the front center of the Structure, whichever is lower) does not exceed the “maximum construction height above ground without an Airport Zoning Permit” shown for the Lot on the applicable Maximum Construction Heights Without Permit Plate in the Crystal Airport Zoning Map.
  - (B) **No Violation Of Height Or Land Use Restriction Permitted.** Nothing in this Section H(2). shall be construed as permitting or intending to permit a violation or a greater violation of any provision of this Crystal Airport Zoning Ordinance.

- (3) Permit Application. An Airport Zoning Permit application for activities on a Lot shall be made in the manner and on the form established by the Zoning Administrator of the jurisdiction in which the Lot is located as designated in Section K(2).
- (4) Permit Standard. An Airport Zoning Permit shall be granted unless the Zoning Administrator determines that granting the permit (1) would allow a conforming Structure or use to violate any provision of this Crystal Airport Zoning Ordinance or (2) would permit a Nonconforming Structure or a Nonconforming Use to become a greater violation of any provision of this Crystal Airport Zoning Ordinance. Any Airport Zoning Permit may be granted subject to any reasonable conditions that the Zoning Administrator may deem necessary to effectuate the purpose of this Crystal Airport Zoning Ordinance. In making any determination, the Zoning Administrator need not give public notice of, or hold a public hearing on, the Airport Zoning Permit application or the determination.
- (5) Abandoned Or Deteriorated Nonconforming Uses. Whenever a Zoning Administrator determines that a Nonconforming Structure, Nonconforming Use, or Tree has been abandoned or more than 80% torn down, deteriorated, or decayed, no Airport Zoning Permit shall be granted that would allow such Nonconforming Structure, Nonconforming Use, or Tree to exceed the height restrictions of Section D(2). or otherwise violate any provision of this Crystal Airport Zoning Ordinance. Whether application is made for an Airport Zoning Permit or not, a Zoning Administrator may order the owner of the abandoned, torn down, deteriorated, or decayed Nonconforming Structure, Nonconforming Use, or Tree at the owner's expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this Crystal Airport Zoning Ordinance. In the event the owner shall neglect or refuse to comply with such order for 10 days after receipt of written notice of such order, the Zoning Administrator may, by appropriate legal action, proceed to have the Nonconforming Structure, Nonconforming Use, or Tree lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the Nonconforming Structure, Nonconforming Use, or Tree is, or was, located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes, all as authorized by Minnesota Statutes § 360.067.

## I. VARIANCES

- (1) **Variance Application.** Any Person desiring to use his or her property in violation of any provision of this Crystal Airport Zoning Ordinance, whether to construct or establish a new Structure; to alter, change, rebuild, repair, or replace an existing Structure; to allow a Tree to grow higher; to alter, repair, replace, or replant a Tree; or to otherwise use his or her property in violation of any provision of this Crystal Airport Zoning Ordinance, may apply to the Board of Adjustment for a variance from such provision. A variance application shall be made by sending the application on the form provided by the Board of Adjustment by certified United States Mail to (1) the members of the Board of Adjustment and (2) the Board of Adjustment at the mailing address specified in Section L(3). The applicant shall also mail a copy of the application by regular United States Mail to the Zoning Administrator of the jurisdiction in which the Structure or property is located, as designated in Section K(2). The Board of Adjustment may charge a fee for processing the application.
- (2) **Failure Of Board To Act.** If the Board of Adjustment fails to grant or deny the variance within 4 months after the last Board member receives the variance application, the variance shall be deemed to be granted by the Board of Adjustment, but not yet effective. When the variance is granted by reason of the failure of the Board of Adjustment to act on the variance, the Person receiving the variance shall send notice that the variance has been granted by certified United States Mail to (1) the Board of Adjustment at the mailing address specified in Section L(3). and (2) the Commissioner. The applicant shall include a copy of the original application for the variance with the notice to the Commissioner. The variance shall

be effective 60 days after this notice is received by the Commissioner, subject to any action taken by the Commissioner pursuant to Minnesota Statutes § 360.063, subd. 6.a.

- (3) **Variance Standard.** A variance shall be granted where it is found that a literal application or enforcement of the provisions of this Crystal Airport Zoning Ordinance would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Crystal Airport Zoning Ordinance and Minnesota Statutes Chapter 360. Any variance granted may be granted subject to any reasonable conditions that the Board of Adjustment, or the Commissioner acting under Section I(2)., may deem necessary to effectuate the purpose of this Crystal Airport Zoning Ordinance or Minnesota Statutes Chapter 360.

#### **J. HAZARD MARKING AND LIGHTING**

- (1) **Nonconforming Structure.** The Metropolitan Airports Commission may require the owner of any Nonconforming Structure to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Metropolitan Airports Commission to indicate the presence of the Structure to the operators of aircraft in the vicinity of the Airport. Such markers and lights shall be installed, operated, and maintained at the expense of the Metropolitan Airports Commission.
- (2) **Permits And Variances.** Any Airport Zoning Permit or variance granted by a Zoning Administrator or the Board of Adjustment may, if such action is deemed advisable to effectuate the purpose of this Crystal Airport Zoning Ordinance and be reasonable in the circumstances, be granted subject to a condition that the owner of the Structure in question permit the Metropolitan Airports Commission, at its expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazard.

#### **K. ZONING ADMINISTRATOR**

- (1) **Duties.** It shall be the duty of each Zoning Administrator to administer and enforce the provisions of this Crystal Airport Zoning Ordinance. Applications for Airport Zoning Permits shall be made to a Zoning Administrator as provided herein. A Zoning Administrator may charge a fee for processing the application. Airport Zoning Permit applications shall be considered and acted upon by the Zoning Administrator in accordance with the provisions of this Crystal Airport Zoning Ordinance and within the timelines established by Minnesota Statutes § 15.99, as it may be amended. The Zoning Administrator shall remind each applicant that it is the responsibility of the applicant to record any conditions of an Airport Zoning Permit, if required by law.
- (2) **Designated Zoning Administrators.** For the purpose of this Crystal Airport Zoning Ordinance, the Zoning Administrator shall be the official entitled as follows: the Crystal Zoning Administrator for lands located in the City of Crystal; the Brooklyn Park Zoning Administrator for lands located in the City of Brooklyn Park; the Brooklyn Center Zoning Administrator for lands located in Brooklyn Center; the Minneapolis Zoning Administrator for lands located in Minneapolis; the New Hope Zoning Administrator for lands located in New Hope; and the Robbinsdale Zoning Administrator for lands located in Robbinsdale. In the event that 1 or more of the above-described Zoning Administrators fails to administer or enforce this Crystal Airport Zoning Ordinance as provided by law, the Crystal Airport Joint Airport Zoning Board hereby appoints the Metropolitan Airports Commission to administer or enforce this Crystal Airport Zoning Ordinance in the municipality or municipalities. If any official position designated above as a Zoning Administrator ceases to exist or to perform or serve its present function, the successor position as designated by the applicable entity shall become the Zoning Administrator for that entity and shall perform or serve such functions.

#### **L. BOARD OF ADJUSTMENT**

- (1) Establishment Of Board And Selection Of Chair. There is hereby established a Board of Adjustment that shall consist of 5 members appointed by the Metropolitan Airports Commission, and each shall serve for a term of 3 years and until a successor is duly appointed and qualified. Of the members first appointed, 1 shall be appointed for a term of 1) year, 2 for a term of 2 years, and 2 for a term of 3 years. Upon their appointment, the members shall select a chair to act at the pleasure of the Board of Adjustment. Members shall be removable by the Metropolitan Airports Commission for cause, upon written charges, after a public hearing.
- (2) Board Powers. The Board of Adjustment shall have the power to hear and decide appeals from any order, requirement, decision, or determination made by any Zoning Administrator or the Metropolitan Airports Commission in the enforcement of this Crystal Airport Zoning Ordinance and to hear and grant or deny variances.
- (3) Board Procedures.
  - (A) Rules, Meetings, And Records. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Crystal Airport Zoning Ordinance. Meetings of the Board of Adjustment shall be held at the call of the chair and at such other times as the Board of Adjustment may determine. The chair, or in his or her absence the acting chair, 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 offices of the Metropolitan Airports Commission and the Zoning Administrator of the jurisdiction in which the affected Structure or Lot is located, and shall be a public record.
  - (B) Written Findings And Conclusions. The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in affirming, modifying, or reversing an order, requirement, decision, or determination of a Zoning Administrator or the Metropolitan Airports Commission and in granting or denying a variance.
  - (C) Majority Vote Required. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to affirm, modify, or reverse an order, requirement, decision, or determination of a Zoning Administrator or the Metropolitan Airports Commission, to decide to grant or deny a variance, or to act on any other matter upon which the Board of Adjustment is required to pass under this Crystal Airport Zoning Ordinance.
  - (D) Mailing Address. The mailing address for the Board of Adjustment is:  
 Crystal Airport Zoning Ordinance Board of Adjustment  
 c/o Executive Director  
 Metropolitan Airports Commission  
 6040 28th Avenue South  
 Minneapolis, MN 55450

**M. APPEALS**

- (1) Who May Appeal. Any Person aggrieved, or any taxpayer affected by any order, requirement, decision, or determination of a Zoning Administrator made in administration of this Crystal Airport Zoning Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that an order, requirement, decision, or determination of a Zoning Administrator is an improper application of this Crystal Airport Zoning Ordinance as it concerns such governing body or board.
- (2) Commencement Of Appeals. All appeals hereunder must be commenced within 30 days of a Zoning Administrator's decision by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment the notice of appeal and all papers constituting the record upon which the order, requirement, decision, or determination appealed from was taken.

- (3) Stay Of Proceedings. An appeal shall stay all proceedings in furtherance of the order, requirement, decision, or determination appealed from, unless the Zoning Administrator 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 Zoning Administrator's opinion, 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 Zoning Administrator and on due cause shown.
- (4) Appeal Procedures. The Board of Adjustment shall fix a reasonable time for hearing an appeal, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in Person, by agent, or by attorney.
- (5) Decision. The Board of Adjustment may, in conformity with the provisions of Minnesota Statutes Chapter 360 and this Crystal Airport Zoning Ordinance, affirm or reverse, 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 and, to that end, shall have all the powers of a Zoning Administrator.

#### **N. JUDICIAL REVIEW.**

- (1) Any Person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment or any action of the Commissioner taken under Minnesota Statutes 360.063, subd. 6 or 6a, or any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that an order, requirement, decision, or determination of the Board of Adjustment or action of the Commissioner is illegal, may seek judicial review as provided in Minnesota Statutes § 360.072. The petitioner must exhaust the remedies provided in this Crystal Airport Zoning Ordinance before availing himself or herself of the right to seek judicial review as provided by this Section N.

#### **O. PENALTIES AND OTHER REMEDIES**

- (1) Every Person who violates any provision of this Crystal Airport Zoning Ordinance, any zoning approval granted hereunder, any condition of any zoning approval granted hereunder, or any order, requirement, decision, or determination of a Zoning Administrator or the Board of Adjustment shall be guilty of a misdemeanor and shall be punished by a fine, imprisonment, or both of not more than the fine and imprisonment established for misdemeanors by state law. Each day a violation continues to exist shall constitute a separate offense for the purpose of the penalties and remedies specified in this section. This Crystal Airport Zoning Ordinance may also be enforced through such proceedings for injunctive relief and other relief as may be proper under Minnesota Statutes § 360.073, as it may be amended, and other applicable law.

#### **P. RELATION TO OTHER LAWS, REGULATIONS, AND RULES**

- (1) Compliance Required. In addition to the requirements of this Crystal Airport Zoning Ordinance, all Structures, Trees, and uses shall comply with all other applicable city, local, regional, state, or federal laws, regulations, and rules, including Minnesota Statutes §§ 360.81-360.91 – Regulation Of Structure Heights, Minnesota Rules 8800.1100 – Regulation Of Structure Heights, and 14 Code of Federal Regulations Part 77 – Objects Affecting Navigable Airspace.
- (2) Conflicts With Other Regulations. Where a conflict exists between any provision of this Crystal Airport Zoning Ordinance and any city, local, regional, state, or federal law, regulation, or rule applicable to the same area, whether the conflict be with respect to the height of Structures or Trees, the use of land, or any other matter, the more stringent law, regulation, or rule shall govern and prevail.
- (3) Current Versions And Citations. All references to city, local, regional, state, and federal laws, regulations, and rules in this Crystal Airport Zoning Ordinance are intended to refer to the most current version and citation. If such references are no longer valid due to repeal or renumbering, the new laws, regulations, or

rules intended to replace those cited, regardless of the citation, shall govern.

**Q. SEVERABILITY**

- (1) Effect Of Taking. In any case in which the provisions of this Crystal Airport Zoning Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular Structure, Lot, or Tree to such an extent, or to be so onerous in their application to such a Structure, Lot, or Tree, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Crystal Airport Zoning Ordinance as to other Structures, Lots, and Trees, and, to this end, the provisions of this Crystal Airport Zoning Ordinance are declared to be severable.
- (2) Validity Of Remaining Provisions. Should any section or provision of this Crystal Airport Zoning Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Crystal Airport Zoning Ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

**R. EFFECTIVE DATE**

- (1) This Crystal Airport Zoning Ordinance shall take effect on the 1st day of January, 2024. Copies thereof shall be filed with the Commissioner and the Registers of Deeds for Hennepin County, Minnesota.

**EXHIBIT A – AIRPORT BOUNDARY**



**EXHIBIT B – JAZB LAND USE ZONE 1**

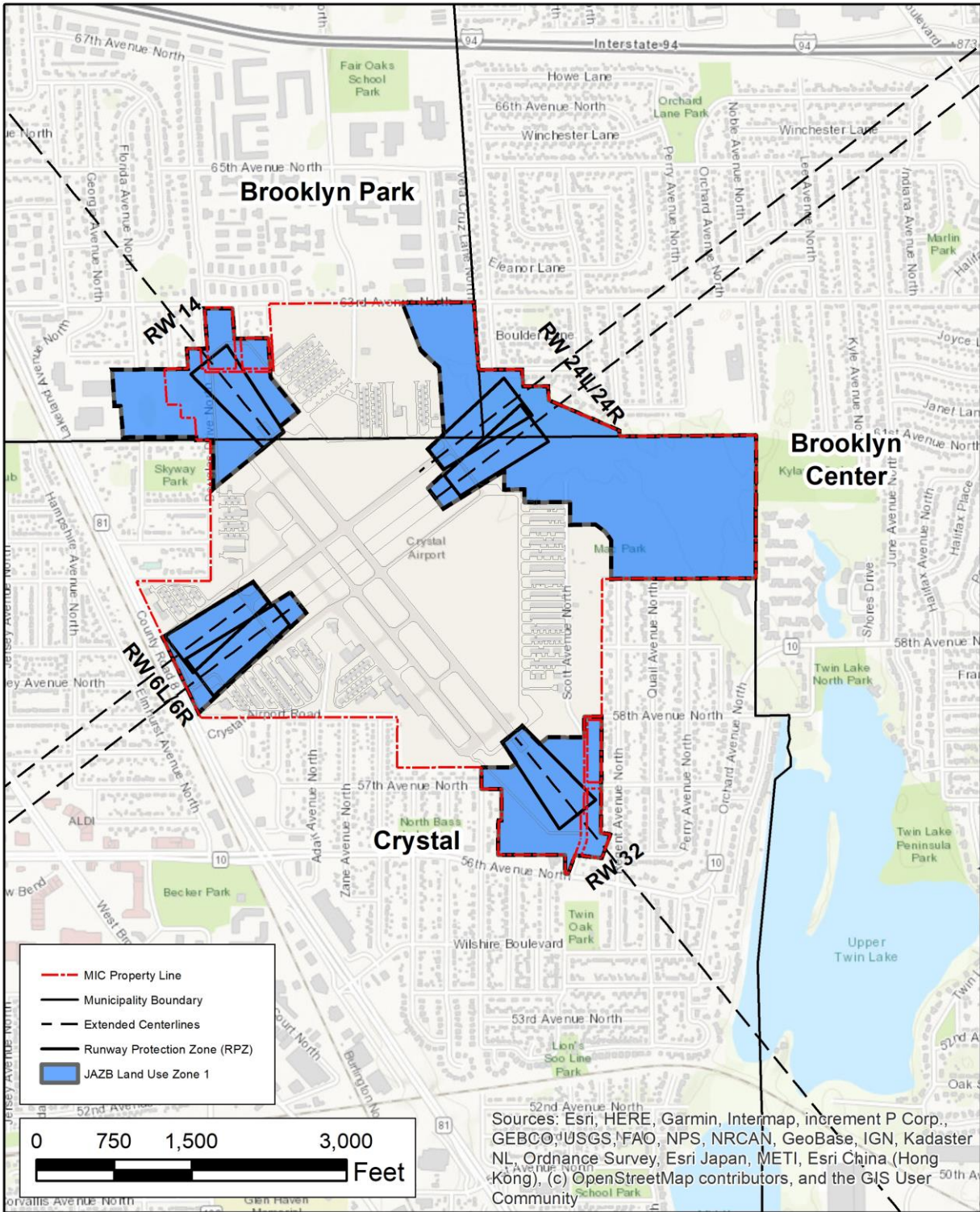
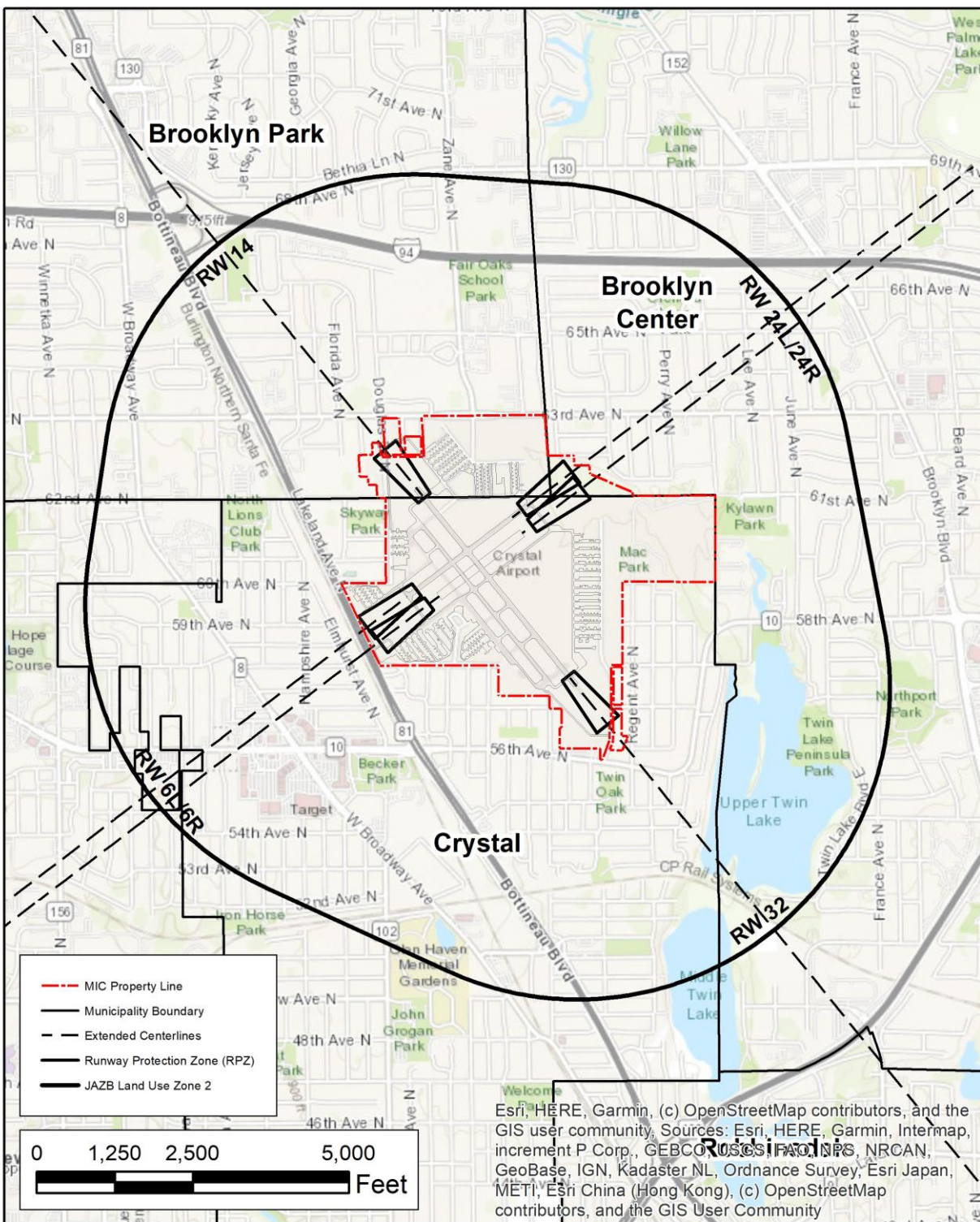
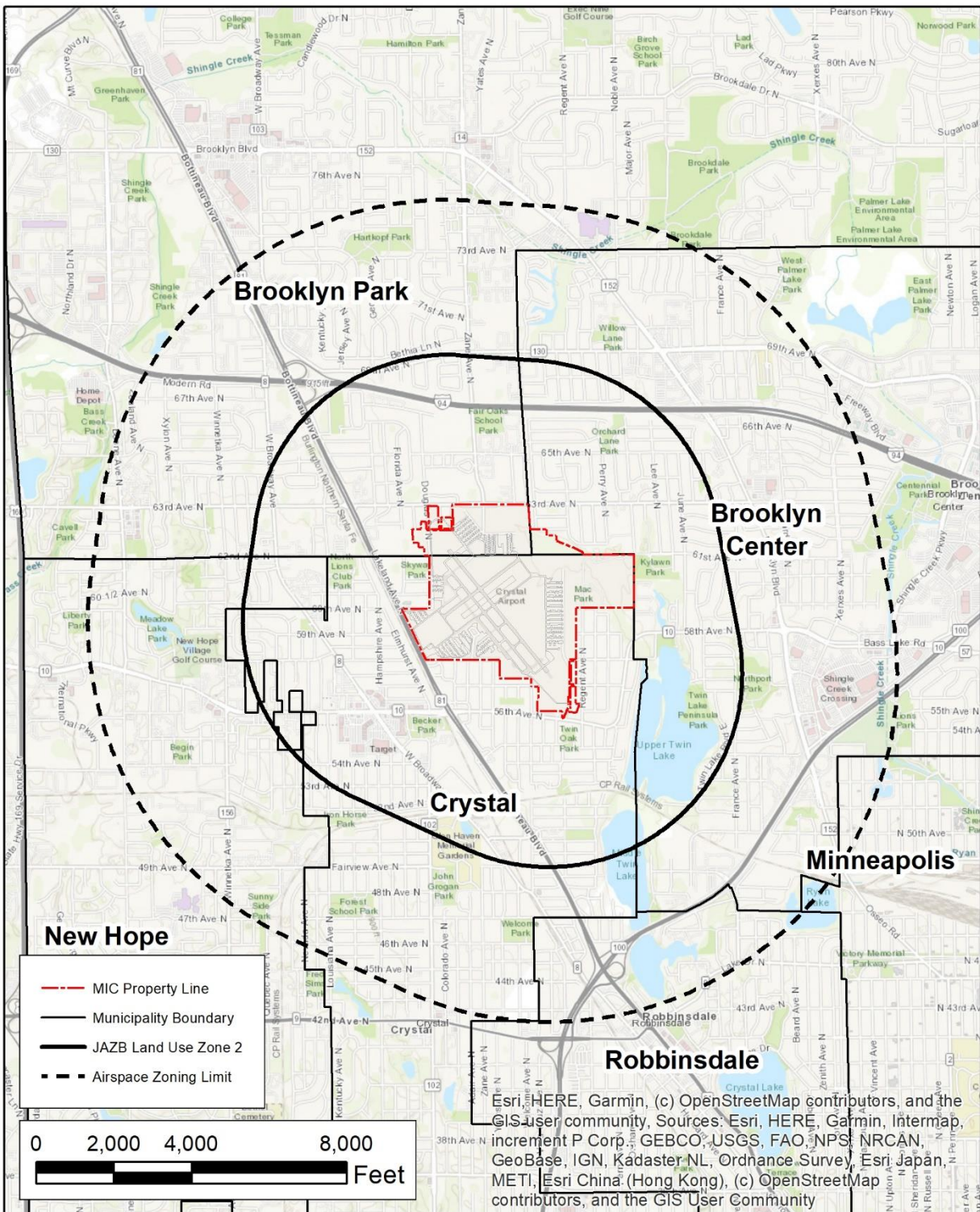


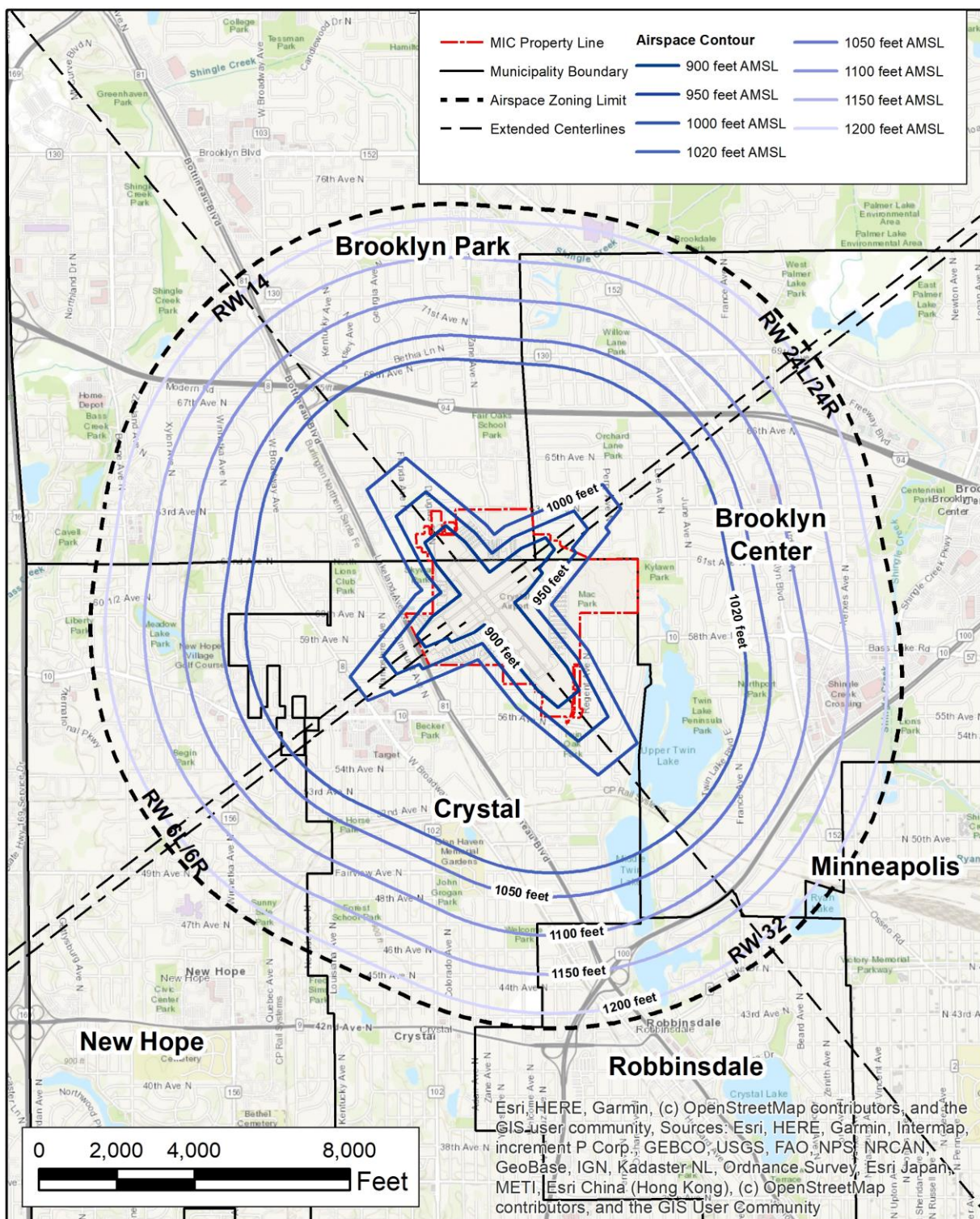
EXHIBIT C – JAZB LAND USE ZONE 2



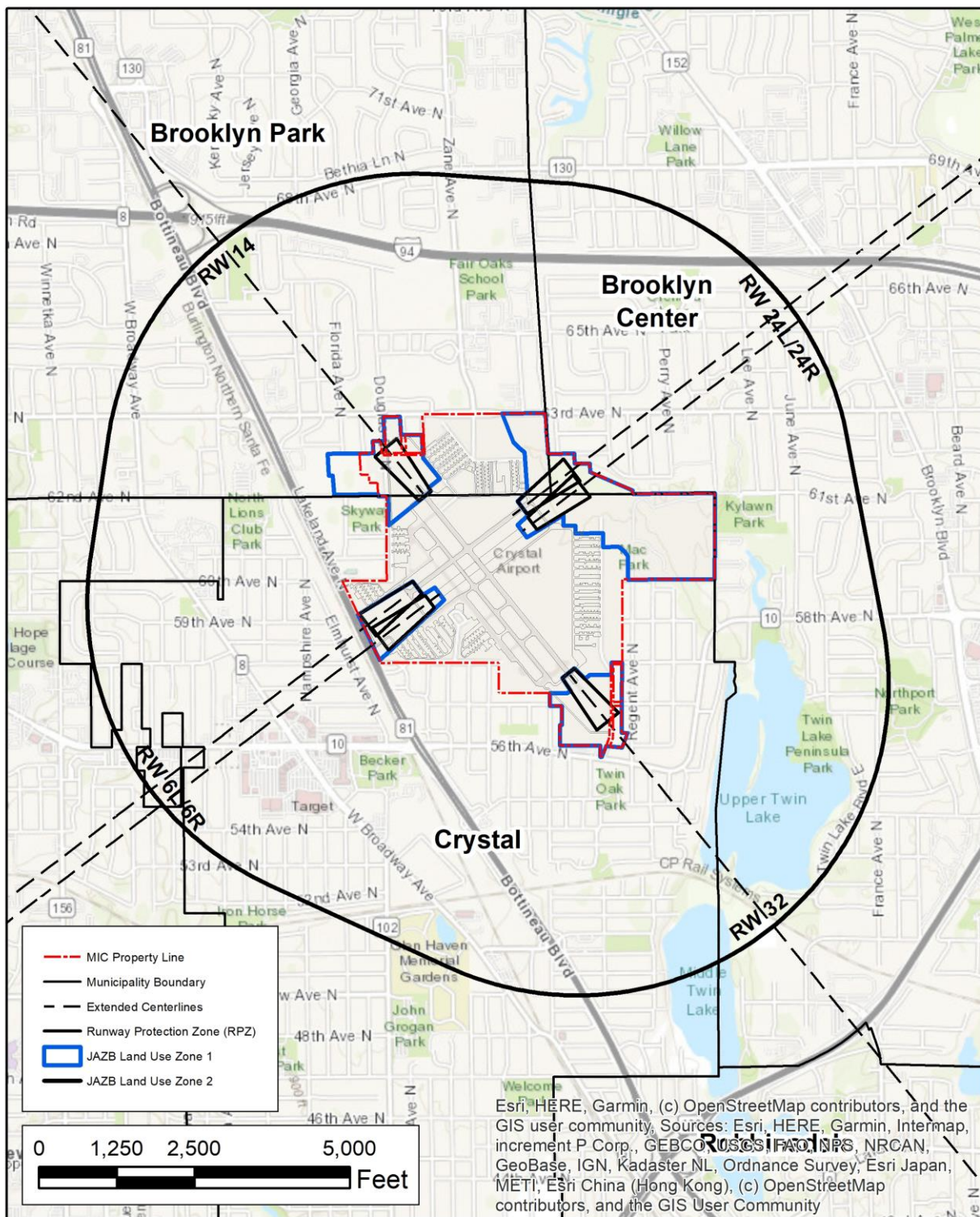
**EXHIBIT D – AIRPORT BOUNDARY AND AIRSPACE ZONING LIMITS**



**EXHIBIT E – AIRPORT BOUNDARY AND AIRSPACE CONTOURS**



**EXHIBIT F – AIRPORT BOUNDARY AND LAND USE ZONING LIMITS**



**MEMORANDUM**

**Date:** February 14, 2024  
**To:** Planning Commission Members  
**From:** Paul Mogush, Planning Director  
**Subject:** Planning Commission 2024 Work Plan



City of Brooklyn Park  
City Hall  
5200 85th Ave. N.  
Brooklyn Park, MN 55443  
763-424-8000  
[www.brooklynpark.org](http://www.brooklynpark.org)

**Summary:**

The Planning Commission work plan for 2024 is attached. Each Brooklyn Park commission develops an annual work plan at the beginning of the year using a standard format. Following is a brief summary of each item in the 2024 work plan:

**Process land use applications and provide recommendations to the City Council:**

This is the core and ongoing work of the Planning Commission.

**Zoning code update:**

Work began in 2020 to make changes to the zoning code and map to bring it in conformance with the 2040 Comprehensive Plan and to make some improvements to organization and readability. While we expected to bring forward changes for adoption in mid-2023, because of the 610 Corridor Development Study, this work was further delayed. The project is now back on track, and we expect to bring forward changes for adoption in mid-2024.

**Planning for development northwest of 169 and 610:**

The 2040 Comprehensive Plan designates the area northwest of 169 and 610 as developing between 2030 and 2040. Preparing for development there will require a substantial amount of planning and coordination of infrastructure and land use, which will begin in the third quarter of 2024. The newly proposed vision for a BioTech Innovation District will be incorporated into this work.

**Attachment:**

2024 Work Plan