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MARSHALL BOYKIN III (1925-2014)
ROBERT C. WOLTER* (Of Counsel)
STEWART N. RICE
JOHN D. BELL**
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SCOTT E. LANDRETH
DANIEL O. GONZALEZ
SHANNON STEEL WHITE
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TEXAS BOARD OF LEGAL SPECIALIZATION

Writer's email: jbell@wbwpc.com

May 31, 2018

Development Services Dept.
City of Corpus Christi, Texas
P. O. Box 9277
Corpus Christi, Texas 78469-9277

Re: Case No. 0318-02; Owner: Hooten Family Trust A

Dear Sirs:

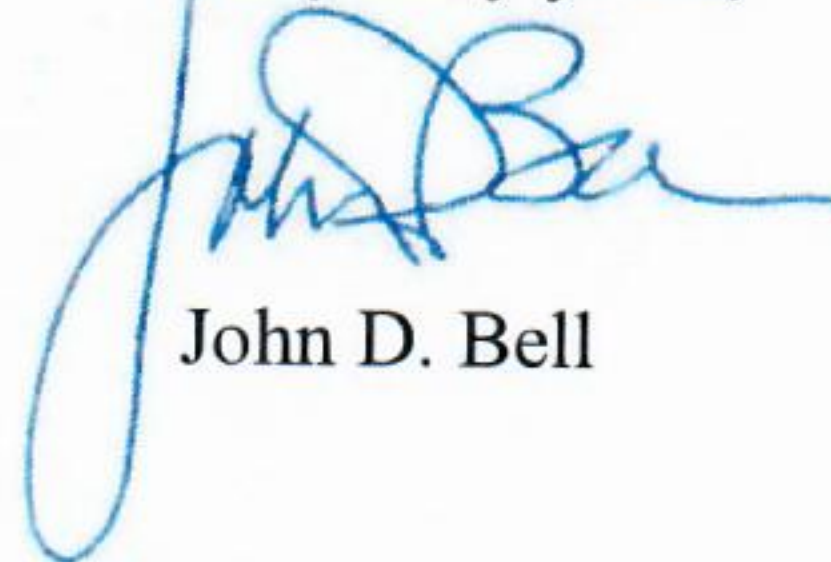
In connection with the above zoning matter, the currently proposed Special Permit conditions include a requirement under Section 1 involving Uses that the above ground storage tanks shall not exceed 48 feet in height. Initially, that height limitation did not present a problem since the original plan was to utilize storage tanks with flat tops.

In order to provide better air quality compliance, dome tops on the storage tanks are preferable. As a result, we need an amendment to the Special Permit conditions providing that in lieu of the maximum height limit of 48 feet, the tanks shall not exceed the height limitations of a 60:1 slope from the nearest runway. The specific change would revise Section 1 concerning Uses to read as follows:

Uses: The only uses authorized by this Special Permit other than uses permitted by right in the base zoning district is the wholesale storage and transfer of petroleum based products. The above ground fuel storage tanks are identified and limited based on the attached site plan. The tanks shall be no larger than 162 feet in diameter, and the height of any tank shall not exceed the limitations of a 60:1 slope from the end of the nearest runway. No spherical tanks are permitted.

The form of a motion to amend the Special Permit conditions to be considered at the City Council meeting is attached.

Very truly yours,



John D. Bell

Enclosure

AMENDMENT

I move to amend Section 1 of the proposed Special Permit conditions concerning acceptable Uses to change the third sentence of that Section to read: "The tanks shall be no larger than 162 feet in diameter, and the height of any tank shall not exceed the limitations of a 60:1 slope from the end of the nearest runway."

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Writer's email: jbell@wbwpc.com

June 11, 2018

Mr. Greg Collins
Development Services Dept.
City of Corpus Christi, Texas
P. O. Box 9277
Corpus Christi, Texas 78469-9277

Re: Case No. 0318-02; Owner: Hooten Family Trust A

Dear Greg:

Thank you for scheduling the meeting today to address the various issues on this zoning case. Since this is a large economic development project for the community, it is critical that we see if we can get all of the issues addressed.

As we discussed at the meeting, rail cars typically are not considered "parked" unless they are detached from power. I've checked existing City ordinances and state law and cannot find any existing definitions for this term that would be applicable. Section 541.401 of the Texas Transportation Code defines the term "park" for vehicles as meaning "to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers." This definition is consistent with the operating plan that we discussed in which rail cars only would be present on site for loading operations.

Our proposed language for Section 5.c. of the proposed Ordinance would be as follows:

- c. Rail Cars:** Rail cars shall not park on the rail line within the area described as a clear zone (the "Clear Zone") in the map attached as Exhibit B. The term "park" is defined to mean detachment of rail cars from power or maintaining rail cars within this area for longer than twenty-four (24) hours.

One of the problems we have had is determining where the specified "Clear Zone" actually is located. On the City's digitized maps available on the website, no Clear Zones or AICUZ zones of any nature exist in the vicinity of the Airport. The City's AICUZ map dated 08/21/2012 does not specify any such zones at CCIA.

Letter to Development Services
June 11, 2018
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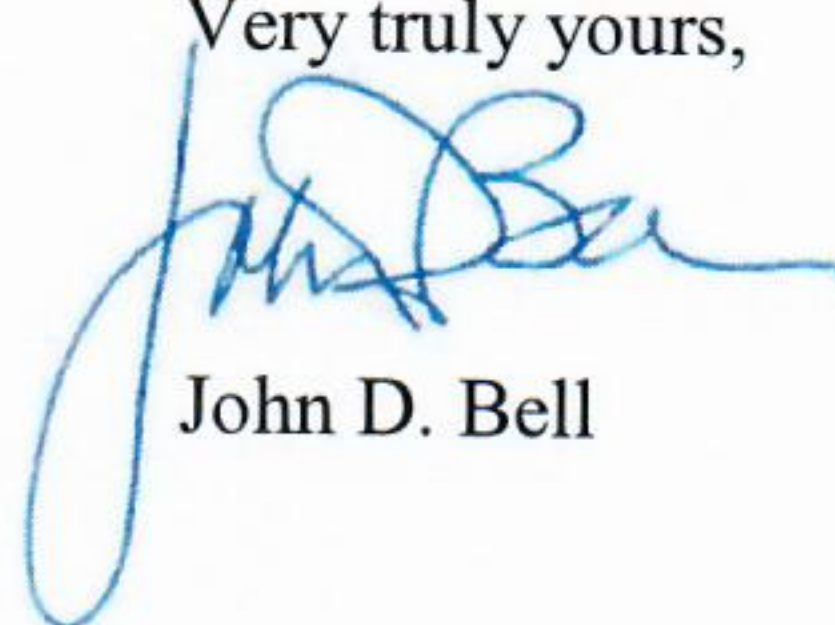
This morning I was directed to the NAS Corpus Christi Joint Land Use Study approved by the City Council in 2013, but that document does not delineate any particular "Clear Zones." It notes "Safety Subzones" at CCIA, and the text notes that they are identified in the NASCC's 2009 AICUZ study or on the Airport's 2012 Airport Layout Plan, but that Plan does not appear to be available through Development Services website. The 2009 AICUZ study does not have any zones at CCIA.

For the Ordinance to have an understandable and enforceable provision, the area referenced in the Ordinance language needs to be to some officially adopted map or something created as part of the Ordinance itself. The purchaser is able to accommodate the City's request to expand the restricted area to the entire 3,000' by 3,000' USAF Clear Zone standard as delineated in the updated plan circulated this morning, but that only can be accommodated with the parking definition provided above. The agreed-upon area can be added to the map attached as Exhibit B.

The 2013 JLUS Study notes that "no development be located within clear zones." You are no doubt aware that the City cannot legally establish such a "clear zone" that prohibits all development simply through adoption of a JLUS report or description on an Airport Layout Plan. The prohibition of all development would be a taking of the property, and if the City is attempting to prohibit any development on this site within the 3,000' x 3,000' USAF Clear Zone area, that would encompass about twice the acreage that was obtained in the Avigation and Hazard Easement in 2012 and virtually all of the roadway frontage of Mr. Hooten's property.

As I mentioned in the meeting, it is difficult to come up with a development project for this property that would involve as few people and facilities as the proposed rail terminal. Let us know if you have any other questions or comments.

Very truly yours,



John D. Bell

Copies to: POTAC Parties
John Hooten
Matt Cravey