

TOWN OF EATONVILLE

Staff Report

Attention: _____
Subject: Resolution 2016-XX

Date: January 9, 2016

Summary: On December 12, 2016, Councilmember Thomas handed out Resolution 2016-XX before the Council Meeting and requested that it be placed on the agenda. There was no discussion during the Council meeting on the Resolution and there was no formal motion made by a Councilmember to add the Resolution to the agenda.

Councilmember Thomas has requested that Resolution 2016-XX be placed on the January 9, 2016 Council Meeting Agenda. The attached Resolution 2016-XX is presented to the Town Council, exactly as it was received from Councilmember Thomas, in its entirety.

Town Staff has requested review of Resolution-XX by the Town Attorney and has received the following responses.

The resolution is legally incorrect when it states that the time period for approving a final plat is 5-years. It is true that the EMC references 5-years. However, the state legislature has amended the state law a number of times since the EMC provision was adopted. For plats that were approved prior to December 31, 2007, the time period is 10 years. See RCW 58.17.140. State law trumps municipal code.

There is no turning the clock back. The town council approved the preliminary plat subject to certain conditions. When the developer can prove that he has met those conditions, he is entitled to final plat approval as a matter of law. Adopting the resolution would guarantee that the Aviator Heights developer would sue the Town and in my opinion a judge would rule against the Town. In that case, the Town would be liable for money damages incurred by the developer and probably attorney fees as well. I assume the town does not have a large pot of money set aside for funding such a lawsuit.

RESOLUTION 2016-XX

A RESOLUTION OF THE TOWN OF EATONVILLE, WASHINGTON, REMANDING THE AVIATOR HEIGHTS PRELIMINARY PLAT TO THE PLANNING COMMISSION FOR RECONSIDERATION AS A NEW PROPOSAL AND SUBSEQUENT PUBLIC COMMENT

WHEREAS, the Aviator Heights development in its current form violates RCW 36.70.547, General Aviation Airports-Siting of Incompatible Uses;

WHEREAS, non-aviation residential encroachment presents the most serious form of incompatible development as outlined in the WSDOT Airports and Compatible Land Use Guidebook;

WHEREAS, the Town of Eatonville failed to adequately incorporate the guidance contained in RCW 36.70.547, General Aviation Airports-Siting of Incompatible Uses; RCW 14.08.030, Acquisition of Property and Easements-Eminent Domain-Encroachments Prohibited; RCW 14.12.020, Airport Hazards Contrary to Public Interest; RCW 14.12.030, Power to Adopt Airport Zoning Regulations; RCW 14.12.090, Airport Zoning Requirements; RCW 14.12.210, Acquisition of Air Rights; and guidance on growth management best practices contained in the WSDOT Airports and Compatible Land Use Guidebook into its Comprehensive Management Plan and city zoning ordinances thereby resulting in an inadequate review of the Aviator Heights preliminary plat by the Eatonville department of public works in accordance with EMC 17.20.060;

WHEREAS, the Town of Eatonville has yet to establish adequate regulation of zoning and land use in the Airport District thereby creating a conflict between the State of Washington airport zoning guidance and the Town of Eatonville's zoning guidance regarding development of lands that fall under the authority of 14 RCW: Aeronautics;

WHEREAS the Town of Eatonville has failed to officially recognize Swanson Field as an essential public facility in accordance with RCW 37.70.547 or adequately address airport requirements in the transportation or economic development sections of the Eatonville comprehensive management plan;

WHEREAS the existing Aviator Heights preliminary plat provides little to no mitigation of the factors leading to the Central Puget Sound Growth Management Hearings Board's finding against the Town of Eatonville regarding the Aviator Heights development and airport zoning;

WHEREAS the initial preliminary plat for Aviator Heights was approved in 2006 and was rendered ineffective after five years by EMC 17.20.110;

THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The Aviator Heights preliminary plat shall be resubmitted to the Planning Commission as a new proposal.

AND FURTHER THAT: All development in the Airport District will be placed on indefinite hold pending development, adoption, and publication of a comprehensive and coherent land use policy governing the Airport District that will ensure the Town of Eatonville is in compliance with both state and federal growth management and aviation management regulations.

PASSED by the Town Council of the Town of Eatonville and attested by the Town Clerk in authentication of such passage this 12th day of December, 2016.

Mike Schaub, Mayor

ATTEST:

Kathy Linnemeyer, Town Clerk