

and the type of aircraft operations (by prohibiting instructional flights). *Certainly, these are all areas of valid local regulatory concern, none of which is federally pre-empted, and none of which inhibits in a proscribed fashion, the free transit of navigable airspace. And, just as certainly, no federal law gives a citizen the right to operate an airport free of local zoning control.* {Emphasis added.}

XI. Typical Approaches to Prevention or Discouragement of Incompatible Airport Land Uses

Listed here are some of the approaches taken by local authorities to prevent or discourage airport-incompatible land uses *BEFORE* they happen, together with some discussion of the points.

- Overlay or “conventional” zoning and control of planned unit developments (commercial or residential) with certain density or clear zone requirements attached;
- Subdivision regulations requiring open space, restrictions on development in stipulated zones, and other constraints;
- Building code restrictions or conditions, insuring sound-proofing;
- Avigation easements required from landowners granting overflight rights and releasing the local government authorities from and against any nuisance, damage or other claim arising from operation of the nearby airport, even if such avigation easements carry a price tag;
- Real property notice requirements pursuant to state law which alert the buyer to the location of the airport and possible nuisance and damage which might follow;
- Airport runway and clear zone requirements over and above what any regulatory agency, such as FAA, might otherwise mandate.
- Buy-out by the local government of real property in certain identified zones, either by agreement or by condemnation under “police powers.”

A. Comprehensive Land Use Plans

Most jurisdictions today are involved in preparing and approving comprehensive land use plans which undertake to establish long-range land use. Many of these plans, however, do not have much to say about airports, their existence or expansion, and the impact of those things on the local community. This may be because many planners are not experienced in aviation matters, and simply don't address some of the issues, except where a major airport exists or is planned, and there much planning attention is brought to bear.

B. Zoning

The most common approach to controlling land uses around an airport is zoning. The first type of zoning is *height and hazard zoning*, which protects the airport and its approaches from obstructions to aviation while restricting certain elements of community growth. FAR Part 77, Objects Affecting Navigable Airspace, is the basis for height and hazard zoning. The hazard considered is to the aircraft and its occupants but not to persons on the ground. Failure of an aircraft in-flight may result in an off airport landing which could cause fatalities, injuries, or property damage to persons or places on the ground. There is no record that this has occurred in the past to the people of Prince George's County; although property on the ground has been damaged or destroyed.

The second type of zoning is *land use zoning*. This type of zoning has several shortcomings. First, it is not retroactive and does not affect preexisting uses that might conflict with airport operations. Secondly, jurisdictions with zoning powers (usually cities, towns, or counties) might not take effective zoning action. This is partly because the airport might affect several jurisdictions and coordination of zoning is difficult; or, the airport might be located in a rural area where the county lacks zoning powers and the sponsoring city might not be able to zone outside its political boundaries. Another problem is that the interest of the community is not always consistent with the needs and interest of local aviation or its nearby residents. Sometimes a compromise is attempted to be attained by the elected or appointed political persons, which neither satisfies the aviators nor the nearby residents. The political body goals affect the zoning - whether the controlling body might want more tax base, population growth, rising land values, or employment, all of which are often not consistent with the need to preserve compatible land uses around airports for other than residential uses.

C. Performance Standards or Regulations

Under certain circumstances, a series of "performance standards" or regulations as to land use might be included in an ordinance which undertakes to exercise the "police power" of the local government with respect to things that can and cannot be done on the land involved. If the land is in an airport hazard area, as might be defined in the standards, certain uses may be disallowed. This is, in reality, a form of zoning control, but one that might be more politically palatable and possible.

D. Sub-division Regulation; Covenants, Conditions and Restrictions ("CC&Rs")

When a developer approaches the city, county or zoning authority for approval of subdivision plats, assuming the right ordinances or statutes are in place which control subdivision activity, certain requirements may be established as part of the approval process, as is done with other issues, to specifically include airport compatibility. For example, the requirement for "aviation easements" is now becoming common. Those easements, similar to samples in the Appendices, require land owners to execute "air rights" above the proposed development, and further, require all subsequent buyers to have certain language in the transfer deed, in which the buyer fully acknowledges the facts concerning proximity to the airport and the understanding that there is risk attaching to such location.

E. Changes in Sub-division Regulations

Another approach to land use planning around an airport is *sub-division regulations*. Provisions can be written into the regulations prohibiting residential construction in intense noise or hazard exposure areas. These areas can be determined by acoustical or aeronautical specialty studies prior to approval of a residential development near an airport. Open space requirements which reduce the density in certain areas, such as Accident Potential Zones identified in this Report, can be insisted upon by the zoning authority, at a very minimum. This approach may need to be backed up by ordinances.

F. Building and Housing Codes

Insulation requirements can be made a part of the local building codes, without which the building permits cannot be issued. Prince George's County Planning Department has drafted a report on Noise Guidance for Land Use Planning and Development. It had not been adopted when this study began and does not include the Model Building Code, a model of which is in the Appendix to this Report from the state of Florida for Recommended Sound Level Reduction Construction Methods and Material Lists.

Adoption of a building code similar to one of the existing models prior to issuance of residential building permits may mitigate future noise complaints.

G. Capital Improvement and Infrastructure Planning

Cities, counties and local zoning authorities may, in the long run, greatly discourage the pressures for residential and commercial land use in the vicinity of airports by simply not authorizing and installing water, sewer, road and other infrastructure in areas considered to be in noise, obstruction, or air safety hazard zones, as defined well in advance of any development proposals. One county in Colorado, for example, simply will not authorize infrastructure expenditures unless the airport management has given its approval to the proposed land use.

H. Tax Incentive Programs to Influence Developers' Decisions

Once a community determines it must exert control over land near its airports, it can buy out the property in certain zones. Then, it has complete control of the situation, including the right to resell the property, but attaching use restrictions that will meet the standards and uses it has pre-determined. In an effort to attract certain uses, it could offer tax incentives, such as reductions or outright exemptions, to such businesses as warehouses and other industrial uses that are considered appropriate for airport neighbors. In some cases, as in LaCrosse, Wisconsin, for example, an aggressive industrial airport development around the airport, with land uses that are clearly airport-compatible, has become a magnet for industry and has assisted a public airport in becoming a positive economic force instead of a financial burden.

I. State Airport Zoning Authority/Regulation

As a part of an overall strategy, the local governments might undertake to influence legislative action at state level to strongly empower local authorities to move on airport compatibility issues, including, as in some states, a mandate to institute an airport land use zoning

plan. Further, they might specifically authorize funding to acquire ownership or highly restrictive aviation easements in certain airport-impacted zones, existing and prospective. Strong support from state level can be helpful to diffuse the impact of local "politics" and its effect on land use decisions.

XII. Apparent Existing or Planned Incompatible Land Uses at Each of the Four Airports in Prince George's County and Recommended Actions and Rationale for Actions

Having looked at some of the strategies used by local governments to either mitigate or prohibit incompatible land uses, this Study now undertakes to specifically address some of the issues in Prince George's County. It is apparent that a number of airport-incompatible land uses, around all four of the county airports, are already in place or planned.

Consultant has undertaken to:

- 1) List the primary incompatibilities;
- 2) List the rationale for mitigating the situations.
- 3) Suggest mechanisms for such mitigation.

Each airport is treated separately as each offers a unique set of problems and issues. The following actions are recommended and the rationale is provided in each case.

- **Potomac Airfield:**

Apparent Existing Incompatible Land Uses:

- 1) Houses in Accident Potential Zones (Off-Airport);
- 2) Berm at the end of the Runway 24 (Off-Airport);
- 3) Trees at end of Runway 24 on both sides (Off-Airport);
- 4) Overlapping "traditional" approach patterns with Washington Executive/Hyde Field (Off-Airport);
- 5) Displaced runway threshold (On-Airport).

Apparent Planned Incompatible Land Uses

None observed or mentioned.

RECOMMENDED ACTION if Airport Continues in Business:

Change runway length, adding approximately 200 feet to the 6/24 runway, if possible, and displace the threshold by approximately 200 feet further toward the north on Runway 6, by modification of Special Exception.