

PENDING AMENDMENT

P08-39

Airport Overlay District

CASE HEADING:

REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE, ADOPTION AND ESTABLISHMENT OF AN AIRPORT OVERLAY DISTRICT (AOD) BY AMENDING THE COUNTY ZONING MAP CREATING THE OVERLAY AREA LAYER; AND AMENDING ARTICLE II, INTERPRETATIONS, CALCULATIONS AND DEFINITIONS; ARTICLE III, ZONING DISTRICTS; CREATING ARTICLE VIII.I, OVERLAY DISTRICTS; AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

CURRENT MEETING INFORMATION:

Planning Board Public Hearing, August 19, 2008, 7:00 pm, Room 118, Board of Commissioners Hearing Room, 117 Dick Street, Fayetteville

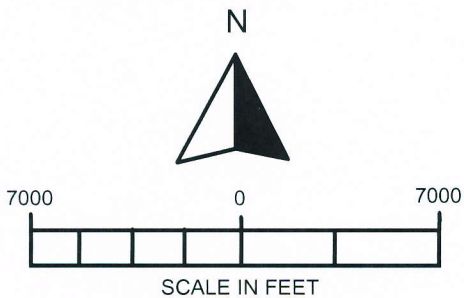
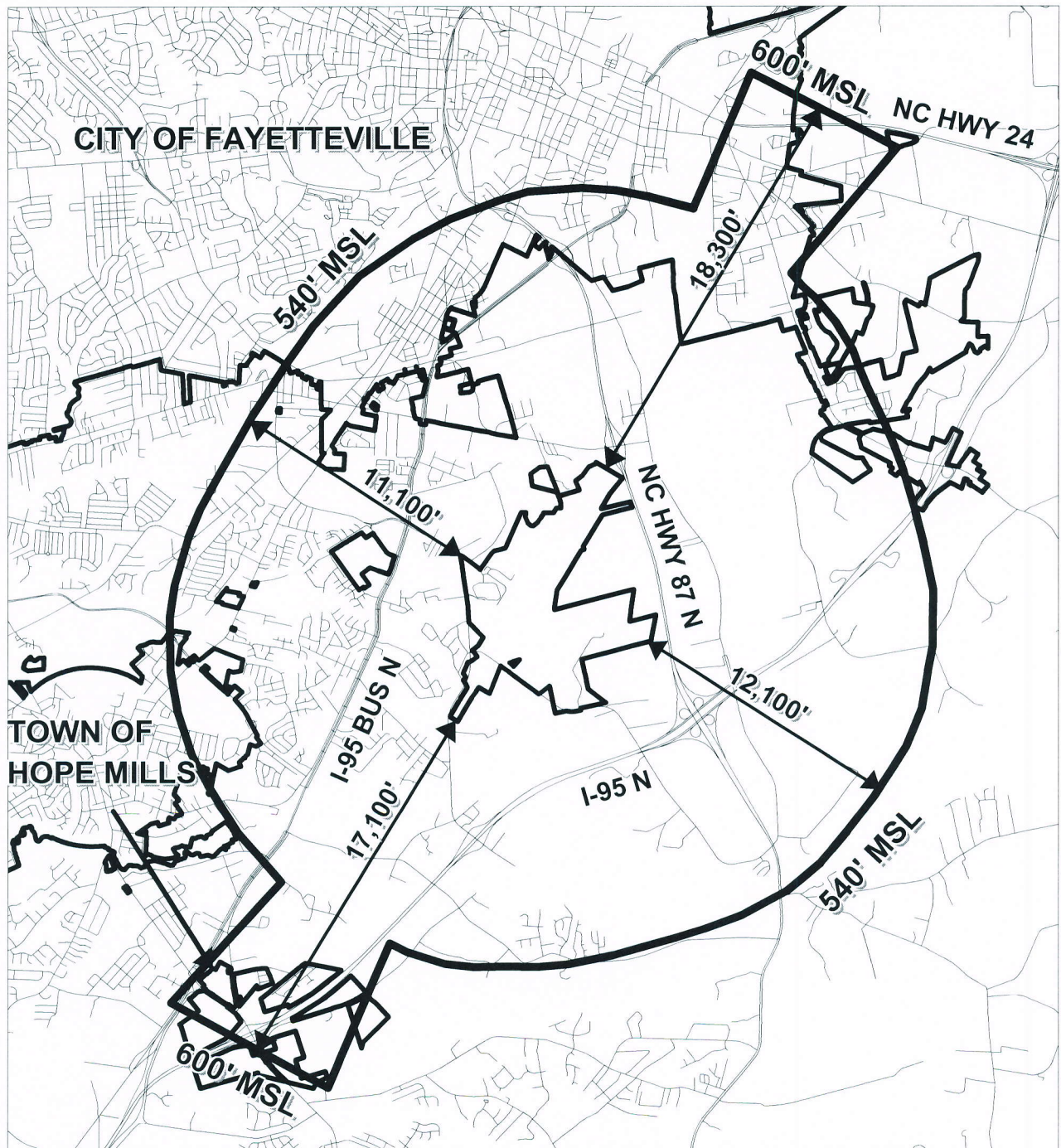
NOTE: The August 2008 Joint Planning Board meeting has been moved to the County Commissioners' Hearing Room due to ongoing maintenance at their regular meeting location.

ADDITIONAL INFORMATION:

The Planning & Inspections Staff, along with the staff from the Town of Hope Mills and the City of Fayetteville, have been working with the Fayetteville Regional Airport Director, Bradley Whited, and his assistant, Toney Coleman, concerning drafting an amendment to the County Zoning Ordinance that will protect the future viability of the airport and citizens and owners of property within the general vicinity of the airport.

A copy of the amendment for an "Airport Overlay District" is attached for your consideration. This amendment, if approved, essentially will require three things:

1. Factors are listed within the text that are proposed to be considered when/if any rezoning petitions are submitted within the overlay area;
2. Notice is to be given to the public by means of a statement on any recorded plat advising the public that the property is located within an area that is subject to high noise because of the airport; and
3. Reasonable height restrictions based on an incremental scale, and requirement to provide a copy of the FAA Form 7460-1 to Code Enforcement at the time of permit application. (Please note that this form is already a requirement by the FAA.)



AMENDMENT AIRPORT OVERLAY DISTRICT

COUNTY ZONING ORDINANCE

HEARING NO: P08-39

STAFF RECOMMENDATION

HEARING DATE

ACTION

PLANNING BOARD

GOVERNING BOARD

AMEND Article II, Interpretations, Calculations and Definitions, Section 203, Definitions of Specific Terms and Words, by INSERTING the following in alphabetical order, as appropriate:

Approach Surface Zones: An inclined plane located directly above the approach area to the Fayetteville Regional Airport. The dimensions of the approach area are measured horizontally. The approach areas for each particular runway are symmetrically located with respect to the extended runway center lines and have lengths and widths as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan. The Airport Airspace Plan also shows the slopes of the respective approach surface zones.

Avigation Easement: An easement, recorded with the Cumberland County Register of Deeds, intended to protect property owners and residents of properties in close proximity to the Fayetteville Regional Airport and by providing for the free and unobstructed passage of aircraft in and through the air space above said properties thus providing for the safe, convenient and reasonable operation of the airport.

DNL: The A-weighted average day/night sound level in decibels during a 24-hour period.

Horizontal Surface Zone: A plane, circular in shape with its height 150 feet above the established Fayetteville Regional Airport elevation and having a radius from the airport reference point as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

Conical Surface Zone: An area that extends upward and outward from the periphery of the horizontal surface zone with a slope of 20:1 measured in a vertical plane passing through the Fayetteville Regional Airport reference point. Measuring radially outward, from the periphery of the horizontal surface zone, the conical surface extends for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

Height: For purposes of determining vertical (height) limits related to the Airport Overlay District, established and regulated by the Federal Aviation Administration (FAA), the datum shall be *mean sea level* elevation unless otherwise specified.

Transitional Zone: The areas within the Fayetteville Regional Airport airspace that extends outward and upward from the sides of the approach zones for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

AMEND Article III, Zoning Districts, by CREATING Section 308.1, entitled: Overlay Districts, to read as follows:

SECTION 308.1 OVERLAY DISTRICTS

Overlay districts establish area-specific provisions which are in addition to the regulations applying to the underlying general and conditional use districts and in addition to the minimum requirements of this Ordinance for Special Uses.

A. Airport Overlay District (AOD). The purpose of this district is to protect the public health, safety and welfare in the vicinity of the Fayetteville Regional Airport by minimizing exposure to and giving public notice of probable high noise levels and accident hazards generated by the airport operations and to encourage future development that is compatible with the continued operation of the airport and the economic well being of the County.

B. Reserved for future use.

AMEND by CREATING Article VIII.I, Overlay Districts and CREATING Section 8.101, Airport Overlay District (AOD), to read as follows:

ARTICLE VIII.I OVERLAY DISTRICTS

SECTION 8.101 AIRPORT OVERLAY DISTRICT (AOD)

A. Applicability. The provision of this Article shall apply to all new development within the Airport Overlay District (AOD) and any addition, remodeling, relocation or construction requiring a zoning or building permit. These provisions shall also apply to all trees located within the boundary of the AOD.

B. Airport Overlay District Map. The boundary of the AOD is established as a layer on the *Official Zoning Map, Cumberland County North Carolina* in digital format and is hereby adopted and made a part of the provisions of this Article as if the map itself were contained herein.

[Editor's note: See attached Exhibit 1 for a sketch map of the land area included within the AOD.]

C. Land Uses. The land uses allowed under the terms of this Ordinance shall continue to be allowed in the same manner as established by this Ordinance; however, upon the consideration of any petition for the rezoning of property within the AOD, the Planning & Inspections Staff, Joint Planning Board, and the Board of Commissioners shall give considerable weight to the following factors when formulating their recommendation/ruling:

1. All allowed uses within the district being requested should be compatible with the continued operation of the airport and consistent with the *2023 Off-Airport Land Use Plan*, or subsequent amendments to said plan, upon the subsequent amendments have been officially adopted by the Board of Commissioners;

2. Any petition for rezoning of properties located within the *Airport Impact Zones* – see map attached to this amendment as Exhibit 2 – should not be favorably considered except where such request is consistent with the following recommended land uses and densities:

a. *Airport Impact Zones* 1, 2 and 5 are zones where the recommended land uses should prohibit residential development and allow low impact (less than five people per acre) non-residential development.

b. *Airport Impact Zones* 3 and 4 should allow zero to low density residential development or non-residential development ranging from 25 to 40 people per acre.

c. *Airport Impact Zone* 6 should generally allow low density residential development and non-residential development accommodating fewer than 100 people per acre.

3. Any district that would allow a use incompatible with the airport operations should not be favorably considered without a favorable recommendation for the Fayetteville Regional Airport Director, this includes uses that would cause the following:

a. A high concentration of residential dwelling units, specifically at a density of more than two dwelling units per net acre;

b. A use that would cause a high concentration of people, such as: indoor recreation, schools, medical facilities and the like;

c. Release into the air any substance that would impair aircraft visibility or otherwise interfere with its operation;

d. Produce light emissions, either direct or reflective, that would interfere with pilot vision, result in glare in the eyes of pilots using the airport or diminish the ability of pilots to distinguish between airport lights and other lights;

e. Create electrical interference with navigational signals or radio communication between the airport and aircraft;

f. Construct tall smokestacks or television, telecommunication and/or radio transmission towers; or

g. Attract birds or water fowl in such numbers as would create a hazard and interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport; such as storage of garbage, etc.

D. Height Limitations. Structures shall not be erected, altered, or maintained, and no tree shall be allowed to grow in to a height in excess of the applicable height limits established and regulated by the Federal Aviation Administration (FAA), and prior to application for any building/zoning permit the developer shall provide to the Coordinator a copy of the FAA's acknowledgement of receipt of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, as required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77). In the event, the FAA's acknowledgement indicates the proposed development would provide an obstruction and/or a hazard to air navigation, the developer must provide either written consent from the Airport Director as related to the proposed development or seek a variance under the provisions of this chapter. Notwithstanding the provisions of this Section, height limitations shall not apply to any structure or any vegetation that is 35 feet or less in height, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits of the FAA. The FAA height limitations generally include the following:

1. Approach Zone. Height limitations for Approach Zones shall be determined by measuring outward and upward at a 50:1 slope for Runway 4/22 and a slope of 50:1 for Runway 10/28. This measurement is commenced from the end of and at the same elevation as the end of the respective runway centerline to the prescribed horizontal distance.

2. Transitional Zone. Height limitations for the Transitional Zone shall be determined by measuring outward and upward at a 7:1 slope from the sides of and at the same elevation as the Approach Surface, and extending to the point of intersection with a horizontal surface or conical surface.

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3. Conical Zone. Height limitations in the Conical Zone are established by measuring from the periphery of the horizontal zone and at 150 feet above elevation outward and upward at a 20:1 slope to a height of 350 feet above airport elevation.

4. Horizontal Zone. Height limitations in the Horizontal Zone are established at 150 feet above airport elevation (190 MSL).

E. Notice and Disclosure of Noise Impact. Any site plan, preliminary or final plat for property located within the AOD that is submitted for review and approval under the terms of this Ordinance and/or the County Subdivision Ordinance shall contain the following notice:.

Property shown on this plan/plat is within the Cumberland County Airport Overlay District and all or a portion of the property described hereon is within an area that is subject to an average noise level near to or exceeding 65 dnl.

F. Lighting/Marking.

1. Any allowed use, subdivision, or other development located within the AOD shall not have outdoor lighting or illumination arranged and/or operated in such a manner as to be misleading or pose a danger to aircraft operations and in no case shall lighting be in contradiction to the provisions of Section 1102 M of this Ordinance.

2. The owner of any existing structure or vegetation that is currently penetrating any referenced surface within the AOD shall permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration or by the Director of the Fayetteville Regional Airport to indicate to the operators of aircraft in the vicinity of the airport the presence of an airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the Fayetteville Regional Airport Director.

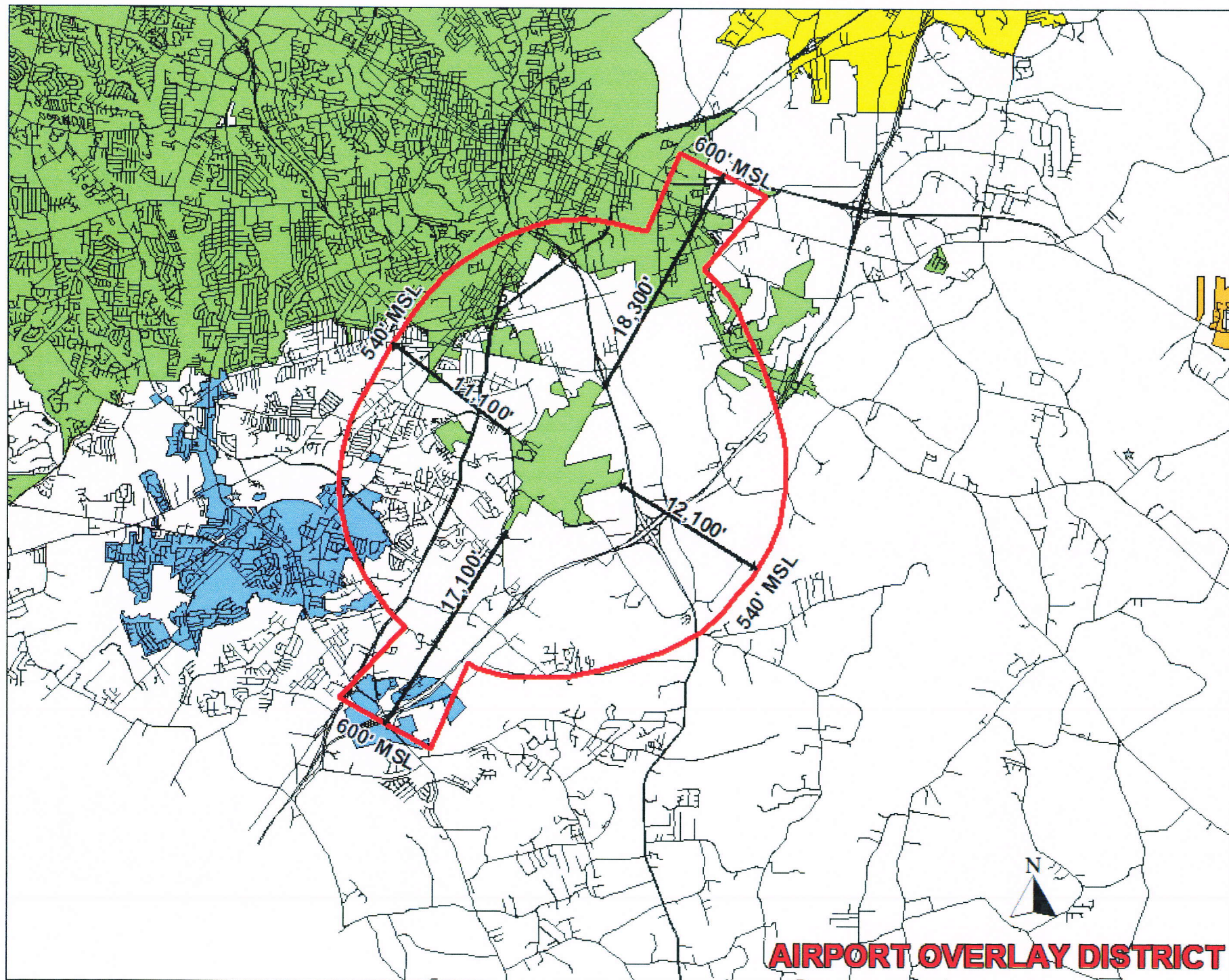
G. Avigation Easement. Property owners and residents of properties in which is encumbered by the avigation easement, recorded in Deed Book 520, page 186, at the Cumberland County Register of Deeds, shall not restrict the access of the Fayetteville Regional Airport Director or the director's designee to enter said properties for purposes of carrying out the provisions of the easement.

[Editor's note: A depiction of the easement location is attached as Exhibit 3 to this amendment for informational purposes only.]

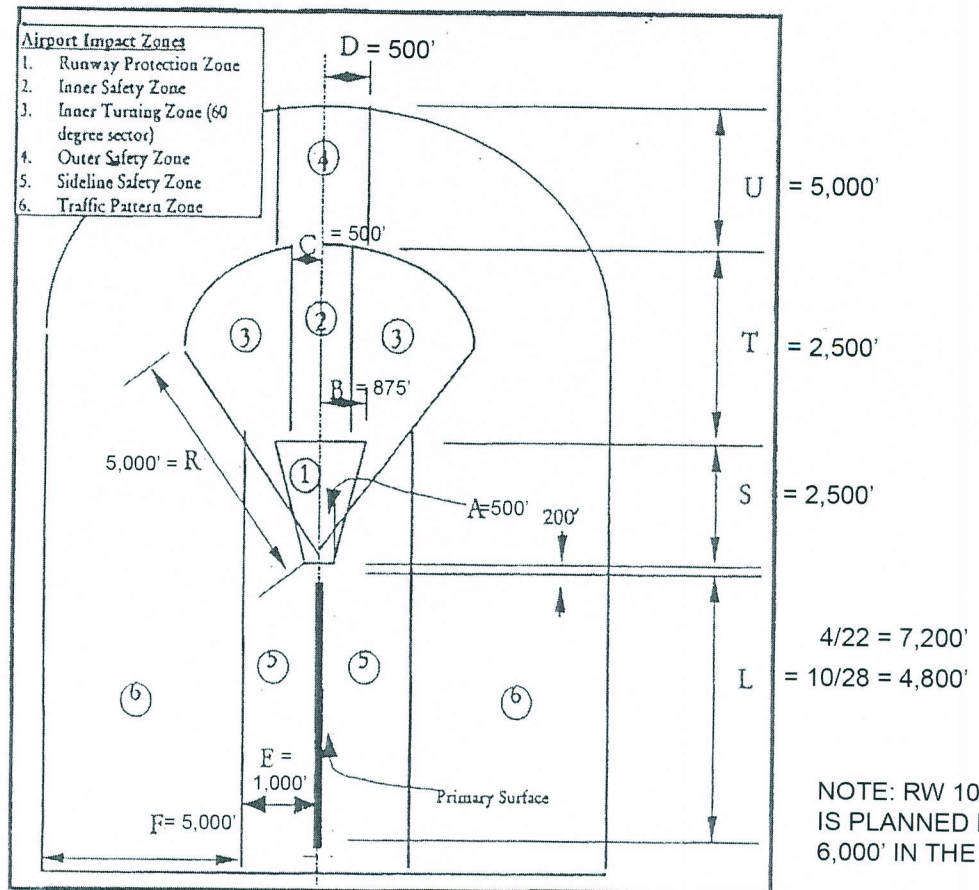
H. Nonconformities. The regulations prescribed in this Section shall not be construed to require the removal, lowering or other change or alteration of any existing structure that is found to be nonconforming to the provisions of this Section as of the effective date of this amendment, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which valid permits have been issued prior to the effective date of this amendment, and is diligently exercised. The provisions of this sub-section do not apply to any tree, which may be trimmed in the event the tree is found to be encroaching into the airspace zones established in sub-section "D" above.

Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 50% percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations within the AOD.

I. Conflicting Regulations. Where the provisions of this Section conflict with the remaining provisions of this Ordinance and any other provision of the County Code or other Federal, State or local regulation, the more restrictive regulation shall apply.



Airport Impact Zones



Airport Impact Zone Dimension (in Feet)

Runway Length Category (L)	
Dimension	Runway 6,000 or more
A	500
B	875
C	500
D	500
E	1,000
F	5,000
R (60° Sector)	5,000
S	2,500
T	2,500
U	5,000

Exhibit 2, Airport Overlay District



**EXHIBIT 3: AVIGATION EASEMENT
DEED BOOK 520, PAGE 186**