

**PARTIAL MINUTES OF THE
ZONING COMMISSION
May 17, 2021**

TEXT AMENDMENTS:

PL(P) 21-14: Amending Sections 30-4-1.4 (Mailed Notice), 30-4-8.7 (District Boundaries, 30-7-8.2 (District Standards), and 30-13-9.2 (Owners Associations) of the Land Development Ordinance related to the Airport Overlay District.

Mr. Kirkman advised the first text amendment request will be making amendments to the City's airport overlay district.

Steve Galanti, Greensboro Planning, advised that city planners have two tools that can be used to guide development within their jurisdictions. First is the base zoning district; second is overlay districts. The base zoning district is a list of uses and dimensional standards applicable for property and applied across the entire city. Meaning if you have property zoned commercial on the north side of town, its dimensional standards, the setbacks and height alignments are the same as if the property was located on the south side of town. Overlay districts differ because they have additional regulations for a specific geographic area. Mr. Galanti wanted the Commissioners to know that because the change proposed to the Overlay District does not make any changes to the base zoning district. That means that if currently a piece of property inside the airport overlay district that does not permit residential uses, changes to the overlay district will still not allow residential unless the property is rezoned. It does not change the base zoning district or the uses currently permitted. Mr. Galanti advised the purpose for the Airport Overlay District is three-fold. To limit uses compatible with the airport operations; to offset the negative impacts that aircraft noise may have with residential uses; and prohibit large structures that will interfere with the airport's operation. The overlay district has a specific geographical area and a special set of regulations.

The current Airport Overlay District has two regulations. One is if a proposed structure exceed 50 feet in height, the airport has to approve. Second, residential single-family detached dwellings are prohibited unless located on lots exceeding 40,000 square feet. The current boundary being used, the specific geographic area, is from the Airport Area Plan adopted by the county and incorporated into the Land Development Ordinance in November of 2003. At that time, City Council decided to move from the 65 DNL outline to the 60 DNL outline. The 60 DNL line was determined by the Airport as part of their study and is the area that depending on its climate, topography, existing development, operations of the airport were over the averaged over 24 hours, the sound level will be 60 decibels. According to the FAA, all uses are compatible with sound at the 65 DNL line, the 65-decibel line. Since that time, the airport has updated the Part 150 study with a new boundary for the 60 DNL line. This occurred is because of airport operations, how planes are landing and taking off and the aircraft is using the airport at the time. City staff has been requested to look at updating the Overlay District.

In doing the update, city staff checked with the airport who raised concerns that significant changes would curtail future expansion for the airport. The Airport also wanted city staff to keep in mind aircraft are still taking off and landing and will still have noise impacts in the area even though the 60 DNL line decreased in size. Two other proposals staff was reviewing in making the changes were twofold. One was if a particular use is permitted in the overlay district it does not curtail use. The second goal was to not create any non-conforming issues. Staff is proposing that the current boundary of the Overlay District be divided into two sub-districts, District A and District B. District A would be the area from the 2007 study, the 60 DNL line and the staff proposal. Option A would mimic the two existing regulations pertinent to the Airport Overlay District. Those are the two regulations concerning structure height and prohibiting

residential single family detached dwelling units on lots less than 40,000 square feet. District B will be the area between the 2007 line in the current boundary of the Overlay District, shown on the map depicted on the screen. The majority of that area is located north of Bryan Boulevard. In Option A, residential development will be allowed with two caveats. If that were to be done, there is a notification requirement. Landowners would need to notify potential buyers that there is the potential for impacts from aircraft noise in that area. The second caveat is if a residential dwelling unit is constructed inside B, they would need to use methods to incorporate noise level reductions. That entails using building design or materials to reduce the noise heard inside the dwelling unit itself and would have to be reduced to at least 30 decibels.

In the text amendment it is incorporated and will be in the split parcel provision that says is if the parcel is split by the outer boundary of the district B line, the parcel would be considered outside of the Overlay District. Except you cannot have the effect of moving that line more than 600 feet and it cannot encroach into area A. Mr. Galanti provided an example. There was an overlay project off of Horse Pen Creek Road and the outer boundary at District B, the yellow line on the map. It splits the parcel and has shifted. The entire parcel cannot be considered outside of the overlay district since the line can only move 600 feet depicted by the blue line on the map. As part of this effort, there was extensive public outreach. The media covered this and there was a press release. There have been discussions with the airport major land owners and the Greensboro Chamber of Commerce. A web site was created dedicated solely to this effort. On that website there was a short video explaining the changes, information on the change in the form of frequently asked questions, and an interactive map where land owners could type in their address and find out if they are in district A or B, or were outside the Airport Overlay District. There were four informational sessions via Zoom, two in October of 2020 and two in April of 2021. With the text amendment process, notices are mailed to those affected by this change and notices published in the newspaper. This text amendment was before the Zoning Commission several months ago. On the way to City Council, the Airport raised concerns regarding the text amendment and asked City Council to instruct staff to look into requiring a noise level reduction and notification requirements in the entire Airport Overlay District. That is option B. Since that time, the airport has come back and, in an effort to not create any non-conforming uses, have offered vesting language to allow existing dwellings located inside the Airport Overlay District to be reconstructed if they become damaged. The changes to the Airport Overlay District have two options, Option A and Option B.

OPTION "A": The proposed overlay district would be divided into two parts: 1) Sub District-A: continues to allow single-family dwellings on lots greater than 40,000 square feet; and 2) Sub-District-B continues to allow single family dwellings on lots greater than 40,000 square feet, and allow other residential uses with notification and noise level requirements.

OPTION "B" : The current boundary of the Airport Overlay District will be divided into two parts: 1) Sub District-A would allow single-family dwellings on lots greater than 40,000 square feet with notification and noise level reduction requirements; and 2) Sub District-B allow all residential uses with notification and noise level reduction requirements.

There is a third component, the revision that would allow existing residential uses located within the Airport Overlay District to be rebuilt if they are damaged. Staff respectfully requested a public hearing be held to receive public comments and make a recommendation to City Council. This is the public hearing before the Zoning Commission to make a recommendation. This item is tentatively scheduled to be heard on June 15, 2021 at City Council where they will also have a public hearing and consider adoption of the ordinance.

Mr. Galanti asked if any of the Zoning Commissioners had questions. Mr. Engle stated existing single-family homes could be rebuilt and asked if that was the only thing that is in Option B. Were there any residential multi-family uses, light-industrial uses in that zone. Single-family detached and the multi-family under B if they became damaged would be able to be rebuilt. Under A, they would be rendered non-conforming and in order for them to be rebuilt, they would have to comply with the use notification and the noise level reduction requirements. Mr. Galanti stated the use regulations have no impact on non-residential uses located in the Airport Overlay District.

Chair Holston inquired if there were additional questions. Hearing none, Chair Holston requested to go down the list for speakers. Ms. O'Connor advised three neutrals and a variety of people in favor of Option B, all from the Airport Authority. Mr. Kirkman stated he would recommend going with counsel for the airport, Mr. Terrell or Mr. Cooke to begin with. Many of the parties are here in support or neutral to the request. Chair Holston requested Mr. Terrell to speak.

Tom Terrell, Fox Rothchild, 230 North Elm Street, representing the Piedmont Triad Airport Authority. The issue before the Zoning Commission is not whether there are protections but what those protections should be. Mr. Terrell stated that the Airport was asking to recommend Option B to City Council and to explain the differences between A and B, and how important it is to the Airport that Zoning recommend Option B. Mr. Terrell introduced Bill Cooke, General Counsel for the Airport Authority to explain.

Bill Cooke, 3 Stonecreek Court, stated the Airport Authority was asking for Option B to be recommended by the Zoning Commission to City Council versus Option A. The difference has to do with the requirement the Airport feels is very important for the protection of new residents in the Overlay District. The notification requirement is very important for anyone buying a house in the Overlay District. It informs the buyers that they are in an overlay district with aircraft overflights.. It is mentioned that there are flights at night. Most houses will be shown during the day when potential buyers may not be aware of the night traffic. The airport is growing and there will be future growth with over flights. The 30 decibel sound reduction is also very important so the Airport can provide extra sound insulation for dwellings against the outside noises. The disagreement starts with Option A, Planning proposal. The two requirements would not apply at all within the inner zone, District A. It would only apply in District B, the outer zone. The Airport feels very strongly about Option B because it made good sense. As the planes head from B into A, they are progressing with lower elevations. It is very important that buyers within Zone A receive that notification and have the 30 decibel reduction standard for noise insulation for both Zone A and B. The Airport's proposal would have them be the same in both zones. The second difference is under Option A, the Planning Department proposes that the 30 decibel noise reduction would not apply even in Zone B if it is 40,000 square feet or greater. The Airport does not see why the 30 decibel reduction requirement applies to houses on lots less than 40,000 square feet, but not for houses on lots over 40,000 square feet. There is no reason the Airport can see for the distinction. The Airport's proposal would eliminate that distinction and the 30 decibel reduction requirement would apply to all lots.

Mr. Cooke emphasized the Airport did not introduce this change on the way to City Council. The amendment was passed through the Zoning Commission. In a letter to the Planning Department on August 31, 2020, it was stated that the Airport felt these requirements should apply in both Zone A and Zone B. In October of 2020, the Airport Board passed a resolution that the requirements should be applied in both zones. This is not something that was introduced at the last minute. The Airport has had to correct this misimpression before. This is a consistent position the Airport has taken all along. As mentioned by Mr. Galanti, they have added in their proposal a vesting requirement of rebuilding houses existing houses that are currently in place. If they were to suffer the misfortune of burning down or some

other casualty. Mr. Cooke asked Mr. Terrell to explain what provision is being proposed to take care of that non-conformity issue.

Tom Terrell then stated what was being shown is something the Airport has only recently come up with because staff was making it clear they were concerned about non-conformities. Language was added to Option B to clear up any non-conforming issues. It was only to fix a problem that was raised. A power point presentation was shown indicating the language in the original 3B section. They have proposed to add six lines to the noise level reduction section in the Overlay. The language shown was the language proposed by the Airport to add making it a non-issue. If someone's home burns down, they are exempted. They are grandfathered and would not have to build back to the new standards. It could be built back to the standards that existed at the time the home was purchased. It is very simple and recommended the new language. The Airport Authority asked the Zoning Commission to recommend to City Council Option B.

Chair Holston inquired if there were any other speakers.

Edward Lindsey, 600 and 602 Millwood School Road, stated it appeared his home fell into the AOD-A and was very confused. He has approximately 6 1/2 acres of land with two very old houses. Mr. Lindsey opted not to get the noise installation because if there were structure problems, he would receive \$1000. Mr. Lindsey was concerned if something happened to his property, he would have to bring it up to a standard where it meets the 30 decibels. It is an older house and there was no way it could. Mr. Lindsey's understanding was if his house burns down, he would not be required to build it back to a standard of a 30 decibel reduction. Mr. Terrell advised that was correct. Mr. Galanti stated that would be in Option A and Option B. Mr. Lindsey felt he was locked in-between. He is next door to the 6 story Hilton Garden Hotel. His property is A1 and commercial property. His has a perennial screen that goes through the middle of his 6 acres. Mr. Lindsey felt stuck with a situation of having two old houses there and if something happened to them, he would not be able to rebuild them.

Mr. Galanti stated under Option A and Option B, Mr. Lindsey would be allowed to rebuild those houses. Mr. Lindsey stated some time ago he was told that because of the location, he could not build a new house on the property. Based on the fact it was in an area where there was commercial property on both sides of his home and was stuck in the middle with an A1. Chair Holston asked if he was saying he had two existing residences on the property and if something happened to either of them, he wanted to know if he could rebuild those houses or was he saying that he wants to build an entirely new structure. Mr. Lindsey responded he has two lots with a home on one and a mobile home on the other. If something were to happen on either one of the properties, he is lost as to what he could do as a homeowner. The property has been in his family since 1950. Chair Holston asked Mr. Galanti if he was familiar with the treatment of the structures that Mr. Lindsey spoke of. Mr. Galanti responded it appears that the site is zoned R-3 which would allow single-family dwellings. Under both of the options, since it is in sub-district K, he would be permitted to build back the single-family dwelling. The only caveat would be if there is a mobile home on the site, he would not be able to replace the mobile home. Mr. Lindsey stated that is what he was told by the City because he is annexed into the City of Greensboro, not the county. He was grandfathered in because it has been there since 1970 but if the mobile home is removed, he cannot bring another one in and would have to put up home to code. Mr. Galanti stated the change to the Overlay District will not change any of that for him. Mr. Lindsey stated it is very confusing as to AOD-A and AOD-B. One says its 40,000 square feet which is the property size. It is just confusing to him as a property owner. His house is the closest to the airport. Other family homes were brought out about 5 years ago by the Airport Authority. The airport keeps expanding and the noise situation will not go away. He is in a Catch-22 and does not know what to do with the property in the event of catastrophe such as a tornado or fire. Chair

Holston asked Mr. Galanti if this was a situation that Mr. Lindsey could benefit by having a conversation directly with him to look specifically at the address, the properties, and the like. Mr. Galanti responded he would be more than happy to meet with Mr. Lindsey or Mr. Lindsey could visit their Planner of the Day offices located in Development Services in the Municipal Building on UG level. Mr. Lindsey advised he lives in California but has Mr. Galanti's number and will call. Mr. Lindsey felt he had a better idea based on what has been stated.

Mr. Terrell advised no one else from the airport has anything to say. Chair Holston inquired if the Commissioners had any questions for anyone before closing the public hearing. Mr. Galanti stated as the discussion process with the Commissioners begins, he would like to bring up two items to add to the discussion. In the format of the Land Development Ordinance, the non-conforming regulations are all in Article 2, not actually in the regulations themselves. If the Commission were to recommend Option B, the Airport's revised submittal, he would request that as part of that motion, to have the non-conforming section moved to the non-conforming portion of the Ordinance. In addition, the Airport has the June 1 date as the date of when an existing residential unit had been constructed or a building permit was being issued. This item will be going to City Council on June 15 and Mr. Galanti would request that date be changed to June 15 to match the adopted date that Council will be discussing this item. Mr. Terrell advised those were acceptable to the Airport Authority. Mr. Engle asked how the City views the difference between a tiny house and a mobile home. Mr. Galanti stated there is not a definition of tiny house and it is not recognized as a term. In the Development Ordinance, there is not a limit on the square footage in a house and can build it as large or big as you want as long as it complies with the dimensional standards. As far as a mobile home, there is a definition that is in the Land Development Ordinance that has to do with the type of construction and the date that the unit was built. Mr. Engle asked if that could be emailed to the Commissioners.

Chair Holston closed the public hearing. Mr. Kirkman stated at this point the Commission could discuss whether they would like to recommend Option A or Option B with the two changes Mr. Galanti suggested and the Airport seems to be consistent with. Ms. O'Connor moved to amend Option B, change the date from June 1 to June 15, and move the non-conforming use language into the non-conforming section of the LDO, Article 2. Second by Mr. Rosa. The Commission voted 8-0. (Ayes: Chair Holston, Skenes, Magid, Bryson, Rosa, Engle, Alford, and O'Connor. Nays: 0). Ms. O'Connor moved to adopt amended Option B. Second by Ms. Skenes. The Commission voted 8-0. (Ayes: Chair Holston, Skenes, Magid, Bryson, Rosa, Engle, Alford, and O'Connor. Nays: 0). Chair Holston stated this was a favorable recommendation, subject to a public hearing on the June 15, 2021 City Council meeting.