

ACTION REQUEST FORM

DATE: March 29, 2017
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, Director of Planning and Development Services

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by Planning and Development Services

SUMMARY OF INFORMATION:

- A. Zoning Text Amendment proposed by Planning and Development Services amending Chapters A and B of the *Unified Development Ordinances* to amend and update the Airport Overlay (AO) District (UDO-274).
- B. Ordinance amending the *Unified Development Ordinances* of Winston-Salem/Forsyth County.

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-274

STAFF: [Steve Smotherman](#)

REQUEST

This UDO Text Amendment is proposed by City-County Planning and Development Services staff to revise Chapters A and B of the *Unified Development Ordinances* (UDO) to amend the Airport Overlay District and the Runway Protection Zone requirements.

BACKGROUND

The Airport Overlay (AO) District has existed in the UDO since its adoption in 1994. The purpose of the district is to ensure the continued safe operation of Smith Reynolds Airport and the safety of structures and people in the vicinity by adding an extra layer of review for tall structures proposed in close proximity to the flight paths for the airport. This extra review requires notifying the Federal Aviation Administration (FAA) and Smith Reynolds Airport when structures are proposed within the AO boundaries which could cause air space obstructions. By notifying the FAA and the Airport of such proposed structures, these organizations have the opportunity to either work with applicants on modifying the design of the structures to address safety concerns, or to negotiate the purchase of property or an aviation easement (an easement which limits the height requirements of development) by the Airport. The recently developed *Smith Reynolds Airport Master Plan* also calls for the Airport to either acquire outright or obtain an aviation easement on all property within the Runway Protection Zones (RPZs) for the airport which are at the end of each runway.

The boundaries of the AO District have already been established in the UDO, and are defined on the 1982 *Smith Reynolds Airport Approach and Vicinity Plan* map - they cover an area of approximately 21,500 acres (33.5 square miles) surrounding the airport. These boundaries are not proposed to change as part of this ordinance amendment. However, mapping technology has improved significantly since 1982, and Smith Reynolds created a new airport master plan in 2012 which includes a higher resolution boundary map (see attached **Exhibit A**). As part of its 2016-17 work program, the Planning Board asked staff to prepare a text amendment which would update the current AO District to reference the updated airport master plan AO boundary map and make other necessary revisions to allow for easier use of the district by petitioners and staff.

ANALYSIS

The proposed text amendment would update the existing AO district, which has not undergone revisions since the UDO was adopted, through minor changes and clarifications. As previously stated, the AO district boundaries will remain unchanged from the currently adopted 1982 boundaries. However, the boundary map referenced in the UDO will change from the 1982 map to the higher resolution map from the current *Smith Reynolds Airport Master Plan*.

As with the current ordinance, the main provision of the revised AO District is requiring building/zoning permit applicants within the district boundary to formally notify the FAA (in accordance with Federal regulations) of any proposed structure that would come close to or

intrude above an imaginary ceiling height (generally 150 to 200 feet above ground) prior to permit approval. Approach zones extending from each runway have lower ceiling heights that range from zero feet at the runway edge to 150 feet at the outer edge of the zone.

The current ordinance states that zoning or building permits may not be issued for sites with structures extending through the previously mentioned ceiling height in the AO District until either the FAA has issued a report on the impact of the proposed structure on airport operations or 120 days have passed, whichever occurs first. This requirement remains unchanged in the proposed ordinance. It is worth noting that in both the existing and proposed ordinance, development meeting all other ordinance requirements is automatically approved at the end of 120 days, however – there is nothing in the ordinance that actually *prohibits* new development above the height ceiling within the AO District. Rather, the ordinance is designed to build time into the development review process to ensure adequate communication between an applicant, the FAA, and the Airport Authority.

Given the aforementioned height limits, staff anticipates few structures will even trigger the extra review required for tall structures in the AO District. In fact, most zoning districts (with the exception of the Central Business (CB) and Central Industrial (CI) districts) have height limits of 60' or less, so very few building/zoning permit applications would be impacted by the average 150' plus height minimum for FAA/airport notification. Future structures most likely affected by the AO notification requirements would be communication towers and high-rise buildings Downtown.

Beyond notification of the FAA and Smith Reynolds Airport, future high rise building construction in the Downtown area should not be impacted. This area is on the edge of the AO District and the only modifications from the FAA would involve building lighting.

In addition to the new, more accurate AO boundary map reference, the other significant new provision of the proposed text amendment is to enhance the current notification requirement to require petitioners of *all development* (regardless of height) within the Runway Protection Zones at the end of each runway to formally notify the FAA and Smith Reynolds Airport prior to the issuance of any permits. These RPZs are trapezoidal areas at the end of each runway (ranging from 13 to 79 acres in size) that serve as runway safety zones to ensure the safe takeoff and landing of aircraft. Development within RPZs is proposed to be subject to the same 120 day FAA comment period limit as the rest of the AO District, and once this period ends, permits meeting other ordinance requirements would be automatically issued. Again, nothing in this proposed ordinance would actually prohibit new development beyond the 120 day time period in the RPZs. The current AO district standards only require FAA/Airport review for *tall structures* within the RPZs, thereby allowing potentially incompatible development that could compromise safety to occur in these areas without consultation with Smith Reynolds Airport.

In addition to the aforementioned changes, this text amendment also reorganizes the current ordinance language to make it easier to use; removes an unenforceable provision which requires the removal of trees on private property that penetrate the AO district height limits; changes document references in the ordinance so they will remain current with any subsequent new airport master plans; and allows for smaller trees (medium variety rather than large variety) to satisfy the UDO's planting requirements within the RPZ.

Planning staff has consulted with the staff for Smith Reynolds Airport concerning this proposed text change. Staff believes the proposed amendment will promote a clearer understanding and more effective use of the AO District standards by staff and petitioners, while ensuring the continued safe operation of Smith Reynolds Airport. Staff recommends approval of the proposed text amendment.

RECOMMENDATION

APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-274
MARCH 9, 2017**

Kirk Ericson presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Paul Mullican

VOTE:

FOR: George Bryan, Melynda Dunigan, Tommy Hicks, Arnold King, Clarence Lambe,
Darryl Little, Paul Mullican, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

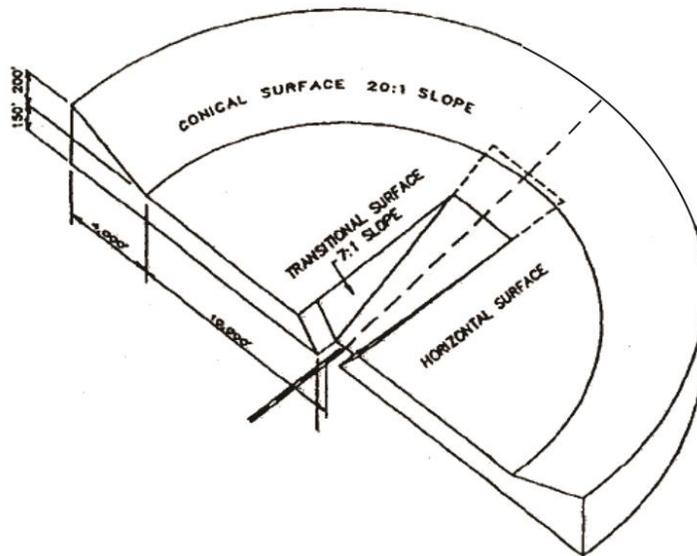
A. Paul Norby, FAICP
Director of Planning and Development Services

UDO-274
AN ORDINANCE AMENDMENT PROPOSED BY
PLANNING AND DEVELOPMENT SERVICES STAFF TO REVISE
CHAPTERS A AND CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO AMEND THE AIRPORT OVERLAY (AO) DISTRICT STANDARDS

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

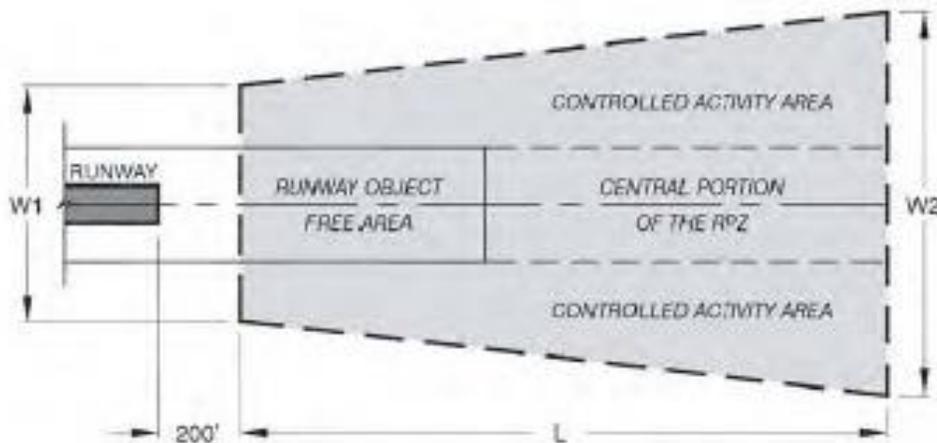
Section 1. Chapter A, Article II - Definitions is hereby amended as follows:

AIR SPACE OBSTRUCTION ZONE. Above ground zones, composed of transitional surfaces, horizontal surfaces, conical surfaces and approach surfaces as defined in FAA FAR Part 77, established in relation to runways 15, 33, 4 and 22 at Smith Reynolds Airport, for which any object extending above these imaginary surfaces is a potential obstruction to airport operations and may constitute a hazard. Any such structure in these zones are subject to review and determination by the FAA as to whether the structure will constitute an obstruction or hazard prior to the issuance of construction permits. Maps defining the AO District boundaries are available in the Department of Planning and Development Services.



RUNWAY PROTECTION ZONE (RPZ). A trapezoidal area at ground level prior to the threshold or beyond the runway end to enhance the protection of people and property on the ground during airport activities. The table below gives the inner width (W1), Outer Width (W2) and Length (L) for all of the runways at Smith Reynolds Airport:

Smith Reynolds Airport Runway Protection Zones				
<u>Dimension</u>	<u>Runway 4</u>	<u>Runway 22</u>	<u>Runway 15</u>	<u>Runway 33</u>
<u>Inner Width (W1)</u>	<u>500 ft.</u>	<u>500 ft.</u>	<u>500 ft.</u>	<u>1,000 ft.</u>
<u>Outer Width (W2)</u>	<u>700 ft.</u>	<u>700 ft.</u>	<u>1,010 ft.</u>	<u>1,750 ft.</u>
<u>Length (L)</u>	<u>1,000 ft.</u>	<u>1,000 ft.</u>	<u>1,700 ft.</u>	<u>2,500 ft.</u>



Section 2. Chapter B, Article II - Zoning Districts, Official Zoning Maps, and Uses is hereby amended as follows:

2-1.6 OVERLAY AND SPECIAL PURPOSE ZONING DISTRICTS – PURPOSE STATEMENTS AND REGULATIONS

- (C) Airport Overlay District (AO) (W)
 - (1) ~~Purpose. The AO District is intended to prohibit the erection of structures which would, because of their height, become airport hazards and interfere with airport operations at Smith Reynolds Airport.~~
 - (1) Purpose. The AO District is intended:
 - (a) To recognize Smith Reynolds Airport as a public facility providing air transportation services;

(b) To establish that an airport hazard endangers the lives and property of users of the Smith Reynolds Airport and property or occupants of land in the vicinity, thereby, impairing the utility of the airport and the public investment therein;

(c) To prevent the creation or establishment of airport hazards for the protection of the public health, safety and general welfare and to promote the most appropriate use of land; and

(d) To avoid air space obstructions in the flight paths to Smith Reynolds Airport.

~~(2) Authority. These AO District regulations are adopted under and pursuant to the Model Airport Zoning Act (G.S. 63-29 through 63-37.1) and all pertinent and applicable provisions of the act are incorporated by reference as part of the Zoning Ordinance.~~

(2) Administration.

Airport zoning regulations shall be administered and enforced as a part of the Zoning Ordinance. The Inspections Division shall have the duty of administering and enforcing airport zoning regulations, including the hearing and deciding of all permits in accordance with G.S. 63-32(a) of the Model Airport Zoning Act.

~~(3) Applicability. The regulations of the AO District shall apply to an area in the vicinity of Smith Reynolds Airport defined by the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces shown on a map entitled Smith Reynolds Airport Approach and Vicinity Plan, Winston-Salem, North Carolina, and dated October 27, 1982. Copies of this map are on file in the office of the Planning Board and in the office of the Director of Inspections. This map is made part of this Ordinance by reference.~~

(3) Air Space Obstruction Zone

(a) Establishment. An Airspace Obstruction Zone is established to carry out the purposes of this Ordinance. These regulations are intended to limit the height of structures and objects that may be hazardous to the operational safety of aircraft operating to and from the Airport.

(b) Boundary. The boundary of this zone shall apply to the area in the vicinity of Smith Reynolds Airport defined by the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as shown on the AO District boundary map on file in the Department of Planning and Development Services.

~~(4) Definition of Terms. The terms approach surface, transitional surface, horizontal surface and conical surface shall have the same meanings as are defined in Section 77-25 and subparagraphs thereunder of Part 77, title 14 of the Code of Federal Regulations and dated January 1, 1982, copies of which are on file in the office of the Planning Board and in the office of the Director of Inspections; and which is incorporated by reference as a part of the Zoning Ordinance.~~

(4) Runway Protection Zones

(a) Establishment. Runway Protection Zones (RPZs) are trapezoidal areas established at ground level prior to the threshold or beyond the end of runways at Smith Reynolds Airport to provide a clear area free of airport activity obstructions.

(b) Boundary. The boundary of these trapezoidal zones are shown on the AO District boundary map on file in the Department of Planning and Development Services.

(c) Alternative Planting Requirement. Medium variety trees shall be planted in lieu of large variety trees wherever landscaping is required by this Ordinance for any site located in Runway Protection Zones permitted after adoption of this ordinance.

~~(5) Overlay District Requirements.No structure or vegetation shall be erected, altered, allowed to grow, or maintained so that it extends into the air space above the approach surfaces or transitional surfaces at and in the vicinity of Smith Reynolds Airport.~~

~~Structures and vegetation which extended into the airspace above the approach surfaces and transitional surface before January 17, 1983 are declared to be airport hazards and prohibited subject to the nonconforming provisions of Section B.5. The owner of a structure or tree which exceeds the height limitations of this section and is allowed to continue as nonconforming shall permit the Airport Authority to install, operate, or maintain thereon, at the City's expense, any markers and lights necessary to indicate the presence of such a hazard to aircraft operations.~~

~~Within all the remaining geographical areas underlying horizontal surfaces and conical surfaces, no person shall construct a structure which would extend into the airspace above these surfaces without giving notice to the Federal Aviation Administration and to the Director of Inspections. No zoning permit shall be issued for any proposed structure which would extend into the airspace above these surfaces for a period of one hundred twenty (120) days or until the Federal Aviation Administration has made a study and issued a report on the effect of said structure on airport operations, whichever occurs first.~~

- (5) Zoning and Building Permits. Within the Airspace Obstruction Zone, or within any Runway Protection Zone, the following activities shall require a Zoning/Building Permit to be granted by the Inspections Division.

New/Expanding Structures or Land Uses. No person shall construct or expand a structure which could extend above the Airspace Obstruction Zone (or establish or expand a land use or new structure in any Runway Protection Zone) without first giving appropriate notice (e.g. Form 7460-1) to the Federal Aviation Administration (FAA), to Smith-Reynolds Airport and to the Inspections Division. No Zoning/Building Permit shall be issued for any proposed structure that could extend above the Airspace Obstruction Zone (or for any structure or land use within in a Runway Protection Zone) for a period of one-hundred twenty (120) days or until the FAA has made a study and issued a report on the effect of said structure or land use on airport operations, whichever occurs first.

- (6) ~~Exceptions.....These regulations shall not apply to any air navigation facility, airport visual approach or landing aid, or aircraft arresting device, of a type approved by the Federal Aviation Administration, the location and height of which is fixed by its functional purpose.~~

- (7) ~~Administration:~~

~~(a) Airport zoning regulations shall be administered and enforced as a part of the Zoning Ordinance; provided, however, that the Zoning Ordinance shall not limit the effectiveness or scope of specific airport zoning regulations of the act.~~

~~(b) The Director of Inspections shall have the duty of administering and enforcing airport zoning regulations, including the hearing and deciding of all permits in accordance with G.S. 63-32(a). The Director of Inspections shall be the administrative agency as that term is used in the act.~~

~~(c) The Board of Adjustment shall, in connection with the administration of airport zoning regulations, have and exercise all powers and perform all the duties granted to and imposed upon the Board of Appeals under the act. In all hearings relating to airport zoning regulations before the Board of Adjustment, the Airport Commission of Forsyth County shall be deemed a party in interest. The public parties in interest shall be given not less than ten (10) days' notice of hearings before the Board of Adjustment.~~

Section 3. This ordinance shall become effective upon adoption.