

July 24, 2019

Jennifer Williams  
Airport Planning and Development  
Supervisor City of Austin - Aviation  
Department

Dear Ms. Williams:

Thank you for our meeting. As discussed, please see our questions below:

1. What are the specific restrictions on residential development in the A03 areas in the FAA grant documents (copies please)?

**Grant Assurance 21 Compatible Land Use-**

Under this Assurance, the City airport sponsor must, to the extent reasonable, restrict land uses near the airport to those that are compatible with airport operations.

The FAA's Compliance Manual addresses this issue in relevant part:

In reviewing the reasonableness of airport access restrictions, the FAA must consider whether the sponsor has fulfilled its responsibilities regarding compatible land use under Grant Assurance 21, *Compatible Land Use*. ***Airport sponsors are obligated to take appropriate action, including the adoption of zoning laws, to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations.*** Local land use planning, as a method of determining appropriate (and inappropriate) use of properties around airports, should be an integral part of the land use policy and regulatory tools used by state and local land use planning agencies. Very often, such land use planning coordination is hampered by the fact that an airport can be surrounded by multiple individual local governmental jurisdictions, each with its own planning process. Some airport authorities have the authority to control land use, but many do not. If the airport sponsor does not have authority to control local land use, FAA will not hold the actions of independent land use authorities against the airport sponsor. ***However, FAA expects the airport sponsor to take reasonable actions to encourage independent land use authorities to make land use decisions that are compatible with aircraft operations. The airport sponsor should be proactive in opposing planning and proposals by independent authorities to permit development of new noncompatible land uses around the airport.*** (Emphasis Added).

Therefore, on August 9, 2001, the Austin City Council adopted Ordinance No. 010809-78, amending Title 25 of the Austin City Code to add new Chapter 25-13 (Airport Hazard and Land Use Regulations), to establish buffer zones, known as airport overlay zones, within the controlled compatible land use area near Austin-Bergstrom International Airport (AUS). As part of this new chapter Airport Overlay Zone AO-3 was created to:

- Prevent the introduction of new non-compatible residential and school uses in and around high noise areas near the Airport, and recommendation of the FAA ABIA Noise Mitigation Part 150 Study of 2000 account for future noise impacted areas.
- Protect the necessary future growth of the Airport with the potential expansion of the AO-2 due to the growth of airport operations and larger aircraft in the future.

On or about August 14, 2007, the Airport submitted its noise compatibility planning study to the FAA for approval under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as "the Act") and 14 CFR Part 150. This study expressly included the restrictions on residential development in the A03.

On or about December 7, 2007, the FAA approved the Airport's noise compatibility planning study including the subject overlays.

2. If development of residential uses in the A03 areas is prohibited in the FAA grant documents, why were exceptions allowed for residential development in the A03 areas in the current Land Development Code?

When drafting the ordinance in 2001, the Aviation Department worked with the surrounding property owners impacted by the Airport Hazard and Land Use Regulation Ordinance and created the AO3 buffer zone to address most of the concerns of the surrounding owners and neighborhoods, while still preventing new non-compatible noise sensitive land uses near the airport. Section 25-13-45 provide the exceptions.

Most recently, on July 23<sup>rd</sup> the Planning Zoning Commission directed staff to update the Ordinance and initiate an amendment to Title 25 of the City Code regarding prohibiting future residential uses in the Montopolis NP covered by the AO3 Zone.

3. Given that the Aviation Department does not object to hotel use in the A03 areas, why does the Aviation Department conclude that MF development with noise reduction safeguards is not an appropriate use in those A03 areas? (Note: hotels are used for extended stays).

Hotels are a commercial activity. MF development is a residential dwelling use where prolonged exposure to aircraft noise and other commercial activity is incompatible with a residential environment.

4. Given that (a) FAA regulations indicate that residential uses in areas with less than 65 decibel levels are compatible with airport uses and (b) the site of this proposed development currently experiences noise levels of below 65 decibels, why does the Aviation Department oppose this residential development?

Note the following:

"Compatible Land Use. Per 14 CFR § 150.7, the use of land that is normally compatible with the outdoor noise environment (or an adequately attenuated noise level reduction for any indoor activities involved) at the location because the yearly day-night average sound level is at or below that identified for that or similar use under appendix A (Table I) of 14 CFR part 150."

The referenced Code of Federal Regulations Table I lists Multifamily as permitted use for zones below 65 YDNL (pg. 631 (pg. 11 of the PDF)).

Please see the response to Question No. 1 which is incorporated in response to this question. By the year 2037, AUS forecasts an annual aircraft operation increase of 296,428 aircrafts, in comparison to the annual aircraft operations count of 210,080 in the year 2018. Furthermore, AUS forecasts that our annual passenger count will grow between 27 to 30 million passengers in year 2037, compared to the annual passenger count of 15.8 million in 2018.

In 2014, the City of Austin's Department of Aviation and the Office of Real Estate Services, in concert with the Federal Aviation Administration (FAA), collectively completed the Airport Noise Mitigation Program, a 13 year long program

That relocated 429 families, 1,088 people, 14 businesses, and 4 schools to locations outside of the high noise-impacted areas surrounding AUS. FAA grants awarded to the Airport provided 75% of the funding for the Program. The total cost of the program was over \$99 million which includes the school relocations.

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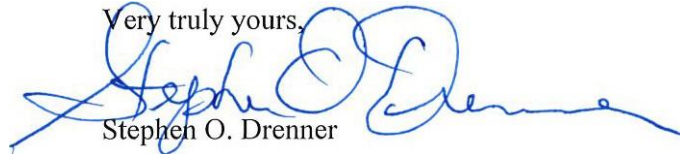
AUS is the airport of choice for Central Texas, and a responsible steward to our citizens, AUS strives to carefully balance and sustain developmental conditions that foster a safe environment for residents, and to meet the rapidly growing demand of air travel services to the greater Austin area.

The AO-3 allows and protects the airport to grow, and gives some predictably to the residents of the future noise impacted areas that surround AUS.

5. Given that residential development on the City's property in the A03 areas is allowed (i.e., ERC zoning) and not opposed by the Aviation Department, why does the Aviation Department oppose this residential development?

The Aviation Department opposes airport noise sensitive land uses and any additional residential units within the AO-3 as is consistent with the Airport Noise Compatibility Program. Please see the response to Question No. 1 which is incorporated in response to this question.

Very truly yours,



Stephen O. Drenner

cc: Derick  
Craig Jeff  
Howard  
Jerry  
Rusthoven