

**CITY OF CHESAPEAKE
POLICY AND LAND USE INITIATIVES TO ADDRESS ENCROACHMENT
IN THE AREA SURROUNDING
NALF FENTRESS**

The City of Chesapeake has diligently pursued measures for a number of years to protect Naval Auxiliary Landing Field Fentress (NALF Fentress). The following is a summary of initiatives taken by the City of Chesapeake to address land use and encroachment in the area surrounding NALF Fentress:

1970's – early 1980's: Navy Purchase of "Air Rights" in the Vicinity of NALF Fentress

In the mid to late 1970's through the early 1980's, the United States Navy (U.S. Navy) purchased restrictive covenants over approximately 8,700 acres of land in Chesapeake, primarily in AICUZ Noise Zone 3. The restrictive covenants prohibit residential development and other uses that are incompatible with the mission of NALF Fentress. The purchase of these development rights was funded by the Federal government. The City of Chesapeake cooperated with the United States Navy in this effort.

February 23, 1988: Chesapeake City Council Adopts Land Use Plan and Basic Land Use Policies

Properties surrounding NALF Fentress were identified on the City's Land Use Plan as suitable for agricultural land use. Agricultural uses were deemed generally compatible with the operations at NALF Fentress.

The City Council also adopted "Basic Policies," which served as the foundation for the current Comprehensive Plan, included the following:

- The City should maintain working relationships with representatives of the U.S. Naval Airfield Fentress Station to mitigate the noise generated by air traffic and to update, if appropriate, and enforce land use controls within agreed upon AICUZ zones.
- Programs and regulations should be established, refined and implemented immediately to minimize noise and safety hazards generated by the U.S. Naval Airfield Fentress Station, and use of surrounding land should be appropriately controlled to avoid encroachment of incompatible development in the existing and future impact areas.
- The primary function of this area (Southern Chesapeake) is threefold: a) to provide and sustain agriculture and protect open space; 2) to provide for rural residential environments; and 3) to provide remote compatible sites for the U.S. Naval Airfield and Chesapeake Municipal Airport.

June 21, 1988: Zoning Ordinance Amendment (TA-Z-88-03)

The City Council approved an amendment to the Zoning Ordinance to prohibit major subdivisions in the A-1, Agricultural District. Major subdivisions were defined as those developments consisting of more than 5 lots or those for which the developer proposes to construct new streets to serve lots. Although this amendment had City-wide application, it served to curb residential development in rural area immediately surrounding NALF Fentress.

July 24, 1990: Adoption of the Comprehensive Plan Policy

The City Council adopted the Comprehensive Plan Policy document in 1990. The Land Use Plan and Basic Policies adopted in 1988 were affirmed, and the Comprehensive Plan included implementation strategies to address compatibility issues with NALF Fentress.

October 16, 1990: Adoption of Fentress Airfield Study and Fentress Airfield Overlay District (with major amendments adopted October 21, 1998)

The Fentress Airfield Study was commissioned to address the compatibility issues developing in the vicinity of NALF Fentress. The Study recommended the formation of an overlay district for properties lying within the AICUZ noise zones established by the U. S. Navy. Consequently, the City Council adopted an amendment to the Zoning Ordinance creating the Fentress Airfield Overlay District. The ordinance was updated in 1998. As amended, the overlay district applied to “all lots within the City located partially or wholly within AICUZ noise contours greater than 75 dB (Noise Zone 3) on the map entitled ‘NAS Oceana/NALF Fentress 1998 Noise Contours and APZ’s,’ including all future amendments.” This provision clarifies that if the U. S. Navy revised its AICUZ maps, the area of applicability for Fentress Overlay District would be automatically revised, with notice to affected landowners.

The ordinance as amended in 1998 allowed property owners to apply for a conditional use permit for certain light industrial uses regardless of the property’s underlying zoning. Buildings and sites approved as part of the conditional use permit must meet certain performance standards, including noise abatement. The ordinance did not prohibit residential development if permitted by the underlying zoning classification. However, the ordinance required that noise attenuation methods be used during building construction for all new residential units and certain assembly uses. In addition, enhanced noise attenuation became mandatory for uses requiring a conditional use permit. Noise attenuation regulations for by-right development were limited to the standards in the Uniform Statewide Building.

The City strongly encouraged upgraded noise attenuation in the form of voluntary proffers for conditional rezonings in or near the Fentress Airfield Overlay District. As a result of the City’s efforts, several major residential rezonings included proffers for noise attenuation measures.

September 21, 1993: Establishment of the Rural Overlay District:

As part of the adoption of comprehensive amendments to the Chesapeake Zoning Ordinance in 1993, the City Council established four overlay districts that dictated maximum densities, intended development and location of public utility facilities for different areas of the City based on growth and land use policies in the Comprehensive Plan. These overlay districts were the Urban, Suburban, Countryside and Rural Overlays. NALF Fentress is located in the Rural Overlay District. This designation has had the effect of precluding large scale development on properties surrounding NALF Fentress. Specifically, the Rural Overlay District prohibits major residential development and discourages the extension of public utility facilities that would otherwise accelerate the suburban pattern of development into the southern areas of the City.

1997: HRSD Sewer Service Expansion Policy

The Hampton Road Sanitation District (HRSD) had long maintained a policy that sewer force mains would only serve property within one mile of the force main unless the locality approved of service outside this designated area. In 1997, the City Council adopted a policy incorporating HRSD's one-mile limit and requiring City Council approval to extend sewer lines beyond that limit. The City's policy was intended to address sewer capacity issues.

Any expansion to the HRSD Sewer Service Area requires approval by City Council. In acting upon requests by landowners to extend or expand the established one-mile service area, the City Council considers the following criteria:

- Impact on the functional integrity of the City's public utility system.
- Fiscal obligations of the City in operation and maintenance to accommodate the expansion, weighed against the public benefit.

This policy allows City Council to review proposed expansions on a case-by-case basis to ensure the expansion will not cause any degradation to the current sewer service system. The policy has the incidental effect of curbing growth in areas far removed from a sewer force main, including some of the properties in the vicinity of NALF Fentress.

September 9, 1998: Fentress Airfield Overlay Amendment (TA-Z-98-09)

The Fentress Airfield Overlay District is amended to include revised 1998 AICUZ map and to impose sound attenuation and disclosure requirements on properties in the noise zone greater than 75 dB.

2001: Public Utilities Franchise Area Expansion Policy

The initial Public Utilities Franchise Expansion Policy, as adopted in 2001, created the Public Utilities Franchise Area and provided that the City Council will "review and

analyze all proposed expansions of the Public Utilities Franchise Area to ensure consistency with the Comprehensive Plan and the adequacy of Public Utilities to serve the area proposed for development.” The Rural Overlay District was not included in the Public Utilities Franchise Area. Since the Fentress Airfield and surrounding properties are in the rural overlay district, there have been no utility extensions that could accelerate the suburban pattern of development in this area of the City.

In 2005, as part of the Comprehensive Plan amendment, the Public Utilities Franchise Expansion Policy was restructured but continued to prohibit the extension of public utilities to most of the properties in the Rural Overlay District.

May 2, 2001: Final Report of the Chesapeake Jet Noise Task Force

The City Council appointed the members of the Chesapeake Jet Noise Task Force in August, 2000. The Task Force was given a two-fold mission: to explore possible mitigation strategies concerning current operations at NALF Fentress, and to consider possible positions for the City to address concerning the environmental impact study for the placement of F/A-18 E&F aircraft. The final report of the Task Force, which was published on May 2, 2001, contained numerous findings and recommendations in areas such as zoning/rezoning, noise sensitivity zones, building codes, noise disclosure, communications, and scheduling/hours of operation/pattern maintenance.

As a result of the recommendations of the Task Force, the City Council began efforts to amend Virginia statutes to require disclosure of jet noise levels to potential purchasers of property within the NALF Fentress AICUZ noise contours. In addition, the recommendations of the Task Force led to the 2004 amendments to the Fentress Airfield Overlay District.

July 1, 2002: Amendment of State Law to Require Notice on Subdivision Plats and Site Plans

In response to the City’s legislative agenda, the 2002 Session of the Virginia General Assembly enacted Senate Bill 652 to require that a statement be placed on all recorded surveys, subdivision plats and final site plans approved after January 1, 2003, giving notice that a parcel of real property either partially or wholly lies with an airport noise overlay zone.

April 20, 2004: Amendments to the Fentress Airfield Overlay District (TA-Z-03-12)

In April of 2004, the City Council amended the Fentress Airfield Overlay District to extend noise disclosure requirements to prospective purchasers of nonresidential and residential properties to all land located in the NALF Fentress AICUZ zones (Noise contours 65-70 dB DNL, 70-75 dB DNL and greater than 75 dB DNL). The ordinance also requires that noise disclosure be noted on surveys, final subdivision plats, and final plans in accordance with the recent change to state law. In addition, the amendments increased the noise level reduction requirements for conditional uses in the Fentress

Airfield Overlay District and required certifications from an acoustical engineer that these more stringent requirements had been met.

May 24, 2005: Chesapeake City Council Adoption of Hampton Roads Joint Land Use Study

The Hampton Roads Joint Land Use Study (JLUS) was initiated at the request of the U.S. Department of Defense to study ways of reducing potential conflicts between NAS Oceana, NALF Fentress, and Chambers Field with surrounding properties. A JLUS is a cooperative land use planning effort conducted between an active military installation, surrounding cities and counties, state and federal agencies. The primary objective is to reduce potential conflicts between the installation and its host community. The Hampton Roads JLUS included Chesapeake/Fentress, Norfolk/Chambers Field and Virginia Beach/Oceana. The Policy Committee, chaired by City of Chesapeake Council Member Debbie Z. Ritter, approved the final report of JLUS in April of 2005. Soon thereafter, on May 24, 2005, the Chesapeake City Council adopted the "Hampton Roads Joint Land Use Study.

The JLUS recommendations focus on protecting NALF Fentress from avoidable land use conflicts, while preserving opportunity for economic development and other compatible growth. The recommendations served as the foundation for satisfying the 2005 conditions imposed by the Base Realignment and Closure (BRAC) Commission for the preservation of the Master Jet Base at NAS Oceana and auxiliary landing field at NALF Fentress.

September 8, 2005: Base Realignment and Closure (BRAC) Commission

The Base Realignment and Closure (BRAC) Commission issued a report recommending the transfer of all strike/fighter jet aircraft that constitutes the Master Jet Base from NAS Oceana to Jacksonville, Florida (Cecil Field), unless the Cities of Virginia Beach and Chesapeake satisfied certain requirements. In an effort to fully comply with the BRAC requirements, Chesapeake took the several actions as listed below, many of which were recommended in the JLUS.

November 22, 2005: Amendments to the Fentress Airfield Overlay District (TA-Z-05-16)

On November 22, 2005, the City Council approved amendments to the Fentress Airfield Overlay District designed to meet the conditions imposed by the BRAC Commission in August 2005 for the retention of the Master Jet Base Oceana, and its auxiliary landing field at NALF Fentress. As previously noted, many of these amendments were reflective of the JLUS recommendations. The principal changes in the amendment were as follows:

- Expands the purpose of the Fentress Airfield Overlay District to include greater protections against high noise levels.

- Provides that all property located wholly or partially in the Noise Contours 65-70 DNL, 70-75 DNL and greater than 75 DNL must comply with the provisions in the Fentress Airfield Overlay District Ordinance.
- Clarifies that City Council finds that residential development within noise contours 65 DNL or greater are not compatible with Fentress Airfield operations.
- Requires more stringent noise attenuation measures for conditional uses located wholly or partially in Noise Contour 70-75 DNL or greater than 75 DNL if the building is identified in the Virginia Uniform Statewide Building Code.
- Provides that noise attenuation standards in the USBC shall apply to residential dwellings in Noise Contour 65-70 DNL.
- Include noise attenuation standards for permitted non-residential buildings and structures in Noise Contours 70-75 DNL and greater than 75 DNL.
- Encourages aviation easements whereby a purchaser grants unto the United States a perpetual and conditional right to conduct and maintain military flight operations over the property and covenants not to sue for damages or losses resulting from jet noise impacts.
- Includes the Compatibility Tables for Noise Contours 70-75 DNL and greater than 75 DNL and Accident Potential Zone I and II. These Compatibility Tables are to be considered by City Council in deciding land use applications, in particular rezonings and conditional use permits. In general, City Council is to refrain from approving a non-compatible use unless it finds that no reasonable use, designated compatible, can be made of the property. The Compatibility Tables do not replace nor amend the tables of permitted and conditional uses for the properties in the Fentress Overlay District that were adopted with the original district in 1990.

November 22, 2005: Amendments to the Open Space and Agricultural Preservation Program

Also in response to the conditions imposed by the BRAC Commission, the City Council approved amendments to the Open Space and Agricultural Preservation (OSAP) Program to provide that open space within the Fentress Airfield Overlay District be eligible for participation in the OSAP Program and also to provide that properties in the Fentress Airfield Overlay District be given priority in the ranking of eligible properties for the voluntary purchase of development rights. The intent of this amendment was to encourage preservation of compatible open space and agricultural uses in the Fentress Overlay District.

The City continues to explore the preservation of agricultural rights through the OSAP program in Southern Chesapeake with a focus on properties that will also serve to reduce encroachments on U.S. Naval operations.

July 1, 2006: Amendment of State Law to Allow the Imposition of a Conditional Use Permit Requirement for Cluster Developments in an Air Installation Compatible Use Zone (AICUZ)

In response to the BRAC Commission conditions for retention of the Master Jet Base at NAS Oceana and the auxiliary landing field at NALF Fentress, the City Council proposed a legislative amendment that would allow local governing bodies to impose a conditional use requirement for cluster developments in an Air Installation Compatibility Use Zone. The 2006 Session of the General Assembly enacted this change in state law.

August 15, 2006: Amendment of the Chesapeake Zoning Ordinance to Require a Conditional Use Permit for Cluster Developments Located in the Fentress Airfield Overlay District

Applying the authority given by the General Assembly as a result of BRAC, the City Council adopted amendments to the Zoning Ordinance to require a conditional use permit for cluster developments located wholly or partially in the Fentress Airfield Overlay District, which included Noise Zones 65 dB DNL or greater and Accidental Potential Zones 1 and 2. The amendment also prohibited the location of any dwelling unit or other incompatible use in Noise Zone 70-75 dB DNL or Noise Zone greater than 75 dB DNL or within Accident Potential Zone 1. The purpose of these amendments was to ensure compatibility of cluster developments with the operations at NALF Fentress.

February 26, 2008: City Council Adopts Resolution Approving the Interfacility Traffic Area Property Acquisition Plan

To further implement the directives imposed by the Base Realignment and Closure Commission in August 2005, City Council adopted a resolution creating a program to purchase development rights and other interests in land lying between NALF Fentress in Chesapeake and the shared boundary of Chesapeake and Virginia Beach. This program has been implemented largely through land purchases under the 2008 Multi-year Agreement with the United States Navy.

February 26, 2008: Amendment to the City Code to provide for a Military Liaison on the Planning Commission

City Council approved an amendment to the City Code to provide for the appointment of a Military Liaison to serve in an advisory capacity to the Planning Commission concerning issues that may involve or have an impact on military facilities located in the City. The Planning Department forwards agenda materials to the liaison prior to the public hearing so that appropriate advice and assistance are made available to the Planning Commission.

July 22, 2008: City Council Approves Multi-year Agreement with the US Navy for the Oceana-Fentress NALF Interfacility Traffic Area

On July 22, 2008, the City Council approved a resolution authorizing the City Manager to enter into a multi-year agreement to establish a partnership with the US Navy for the purchase of real estate in the Interfacility Traffic Area (ITA) in order to reduce encroachments on U.S. Navy operations and to conserve open space. The agreement was subsequently signed by the City Manager on September 15, 2008. The partnership arises out of the Department of Defense Readiness and Environmental Protection Initiative. Under this partnership, the City is to purchase land in the ITA and subsequently convey an easement over the purchased property to the U.S. Navy. The U.S. Navy purchases the easement at its appraised fair market value or at 50% of the appraised fair market value of the fee simple interest, whichever is less. The parties also share in transactional costs.

This partnership has resulted in the purchase of 642 acres of land in the ITA since 2008 and remains an active program.

March 19, 2013: Amendment to the Fentress Overlay District (TA-Z-13-01)

City Council adopts an amendment to the Fentress Airfield Overlay District to provide land use compatibility tables and corresponding regulations for the 65-70 DNL noise contours.

May 14, 2013: Extension of the Multi-Year Encroachment Protection Agreement

City Council adopts a resolution authorizing the City Manager to execute an amendment to the Multi-Year Encroachment agreement between the City and the US Navy to extend the term of contract to September 17, 2018 and to provide cost sharing of appraisals and surveys for property interests to be acquired by both parties for the purposes of preventing encroachment of NALF Fentress.

July 23, 2013: Memorandum of Understanding between the City of Chesapeake and US Navy for Joint Review of Incompatible Discretionary Land Uses Applications

City Council adopts a resolution authorizing the City Manager to execute a Memorandum of Understanding with the Commanding Officer of Naval Air Station Oceana and NALF Fentress for the joint review of incompatible discretionary land use applications in the Fentress Airfield Overlay District. Under the MOU, the Navy will evaluate development proposals, keep the City informed of changes in AICUZ program, provide a liaison to Planning Commission and meeting annually with the City. The City will continue efforts to implement JLUS, inform applicants regarding Reasonable Use Exception Process, establish criteria for determining reasonable use exceptions, and meet with Navy regarding applications for exceptions before Planning Commission.

August 13, 2013: Amendment to the Chesapeake Zoning Ordinance Requiring Notification to a Military Base Commander of Applications that May Affect the Installation

City Council adopts an amendment to the City's Zoning Ordinance to add provisions requiring notification to the Commander of any military installation that will be affected by potential development, in accordance with House Bill 1853 enacted by the 2013 Session of the General Assembly. This notification is in lieu of a military liaison to serve on the Planning Commission.

June 17, 2014: City Council Adopts an Ordinance Establishing the Fentress NALF Encroachment Protection Acquisition Program

Using monies appropriated by the Commonwealth of Virginia and city matching funds, City Council establishes the Fentress NALF Encroachment Protection Acquisition Program where property rights are purchased from willing sellers located in the Fentress Airfield Overlay District to prevent further encroachment and to mitigate or eliminate incompatible land uses.

April 10, 2018: Extension of the Multi-Year Encroachment Protection Agreement

City Council adopts a resolution authorizing the City Manager to execute an amendment to the Multi-Year Encroachment agreement between the City and the US Navy to extend the term of contract to September 30, 2020 and to provide cost sharing of appraisals and surveys for property interests to be acquired by both parties for the purposes of preventing encroachment of NALF Fentress.

September 26, 2019: Quarterly Military Partnership Meetings

A coalition of City and Navy partners (including both active duty and civilian contractor) establish and hold their first quarterly meeting. This partnership allows the City and its installation partners to maintain an effective ongoing dialogue, and be aware of opportunities for mutual partnership and support.

April 14, 2020: Extension of the Multi-Year Encroachment Protection Agreement

City Council adopts a resolution authorizing the City Manager to execute an amendment to the Multi-Year Encroachment agreement between the City and the US Navy to extend the term of contract to September 30, 2025 and to provide cost sharing of appraisals and surveys for property interests to be acquired by both parties for the purposes of preventing encroachment of NALF Fentress.

FEPAP Properties Acquired to Date

Property	Address	Acres	Purchase Date	Purchase Amt	Navy Easement?	Navy Easement Date	Navy Easement \$
Bradshaw	1564 Mt. Pleasant Road	15.12	4/23/2015	\$750,000	Y	5/3/2019	\$137,500
Ferratt	1800 Block Mt. Pleasant Road	120.6	9/30/2019	\$1,675,322	IP		
Great Bridge Storage	1736 Mt. Pleasant Road	54.25	9/29/2015	\$1,350,000	Y	3/13/2020	\$269,000
Hochstetler	1653 Mt. Pleasant Road	26.82	7/21/2015	\$750,000	IP		
Miller Trust	1620 Mt. Pleasant Road	33.05	12/14/2018	\$585,000	Y	3/13/2020	\$190,000
VanLuik	1102 Centerville Turnpike South	16.56	10/5/2015	\$940,000	Y	5/3/2019	\$278,000
Yoder	2500 Land of Promise Road	163.4	1/10/2018	\$1,640,000	IP		