

Recommendations

5.1 Compatibility Tools

The Hampton Roads JLUS Working Group met on a regular basis throughout the JLUS planning process to evaluate a full range of possible compatibility tools. The JLUS team also conducted a series of Public Information sessions and small group meetings with community stakeholders to gather feedback on possible encroachment reduction strategies.

Representatives of local jurisdictions, the Navy, and the public voiced a wide variety of issues, concerns, and ideas during the study. The resulting set of tools seeks a balance among these diverse interests by stressing:

- the feasibility of implementation;
- the ability to sustain the economic health of the region and protect individual property rights;
- the protection of the critical military missions performed by NAS Oceana, NALF Fentress, Chambers Field and adjacent military facilities; and
- the protection of the health, safety, welfare, and overall quality of life of those who live and work in the Hampton Roads region.

This section describes eight basic approaches to promoting compatibility between Navy airfield operations and surrounding land uses.

Coordination/Organization

One of the most critical outcomes of the JLUS study is the process itself. Stakeholders from the community and military have the opportunity to build collaborative relationships, identify mutual interests, and work toward reasonable solutions that protect both civilian and Navy goals. Coordination and organization tools create the institutional capacity to support on-going implementation.

Communications/Information

These tools establish clear mechanisms for information exchange among residents, local governments, and the military. Increased communication raises overall awareness of Navy activities and their associated impacts, as well as identifies possible approaches to reduce the effects on surrounding communities.

Sound Attenuation

One of the concerns expressed during public involvement activities is that noise generated by aircraft can diminish the quality of life for residents living around Oceana, Fentress, and Chambers Field. This strategy seeks to reduce the intrusiveness of aircraft noise by protecting vulnerable land uses, particularly houses and schools.

Sound attenuation refers to special construction practices designed to lower the amount of noise that penetrates the windows, doors, and walls of a building. Sound Transmission Class (STC) ratings measure the effectiveness of these building materials at blocking noise. Noise Level Reduction (NLR) represents the difference between outside and inside noise levels. Materials with higher STC ratings reduce more outdoor noise, making indoor areas quieter and increasing the amount of NLR.

Real Estate Disclosure

Prospective developers, buyers, and renters, particularly those new to an area, may be unaware of the special conditions that are part of living near active military airfields. A strong Real Estate Disclosure Ordinance educates individuals about the potential hazards and nuisances of aircraft operations and it allows them to make well-informed decisions about property investment around military installations.

Planning and Public Policy

Planning and public policy tools are intended to guide overall growth patterns within local jurisdictions in ways that support future military/civilian compatibility. In general, these strategies encourage new development in already developed areas away from military installations as a means of reducing future land use conflicts.

Land Use Regulations

These include provisions or regulations that control development densities and land use activities within established noise and safety zones around the airfields to protect the health, safety, and welfare of the public and maintain compatibility with military operations. These measures are intended to accommodate future growth, while minimizing the concentrations of people and activities that may trigger conflicts with noise and other operational impacts. Since local jurisdictions exercise land use control through tools such as zoning, any regulatory tool or revisions to current zoning would be implemented through the established local

government legislative process. Zoning revisions need to recognize legal property rights in accordance with existing Commonwealth of Virginia land use laws.

Acquisition

Acquisition refers to a series of tools designed to eliminate land use incompatibilities through voluntary transactions in the real estate market and local development process.

Acquisition strategies are particularly effective tools because they advance the complementary goals of shifting future growth away from the airfields, while protecting the environment, maintaining agriculture, and conserving open spaces and rural character. A critical first step in implementing acquisition tools is to identify areas of conservation interest. Laying out protection priorities around airfields is of value in exploring possible partnerships with non-profit conservation groups and in requesting future acquisition funds.

Military Operations

Just as the spread of growth from nearby jurisdictions can threaten the viability of Oceana, Fentress, and Chambers Field operations, change in planned military missions, aircraft, and land use activities at the bases can affect the livability of surrounding communities. The purpose of operational modifications is to minimize the noise and safety impacts experienced by communities around the Navy airfields, while protecting the viability of the military mission.

The sections that follow identify the specific compatibility tools that would be available to: the overall Hampton Roads region, including the Cities of Norfolk, Virginia Beach and Chesapeake; the Navy; and each individual local jurisdiction.

5.2 The Hampton Roads Region

The JLUS identifies the following communication, coordination, policy, disclosure, and sound attenuation tools for all of the jurisdictions within the Hampton Roads region (See Table 5.1).

1. Form a Hampton Roads Joint Land Use Regional Coordinating Committee to sustain implementation.

To continue the momentum created by this effort, the local jurisdictions, in collaboration with the Navy, would establish a Hampton Roads Joint Land Use Regional Coordinating Committee. The committee would consist of select members of the JLUS Committee, representing all participating local governments, the Navy, and community, environmental, and development interests. This Committee could also be expanded to include the Hampton Roads peninsular communities and military representatives in that part of the region. The Committee would have both Technical and Policy Committees similar to the JLUS Committee structure and would meet bi-annually (or as necessary) to review military-community affairs throughout the Hampton Roads area. HRPDC is suggested as the organization to provide staff support, meeting space and other logistical support in a similar manner as for other HRPDC-sponsored committees.

The committee would serve as a forum for public input, the review of major land use proposals both within the military and civilian sectors, and on-going consensus-building to support sound, regionally-based, and cooperative community planning decisions. Any military land use and operations-related issues affecting the local communities could be introduced and discussed using this forum for community input, dialogue and recommended implementing actions.

2. Provide on-going and updated information on JLUS implementation through local governments.

Under this communications strategy, each participating jurisdiction would maintain an on-going JLUS link from its web site that provides residents, developers, and businesses with information about Navy operations, the JLUS results and on-going implementation efforts, procedures to submit comments, and any additional local measures to promote land use compatibility around the military installations, including the recommendations contained in this report.

A particular emphasis of this tool is improved public awareness of height restrictions currently in effect around military and civilian airfields and the safety hazards associated with development that obstructs airspace.

3. Request additional information from the Federal Aviation Administration on development requirements and noise mitigation assistance.

With this tool, the region would supplement educational outreach by requesting a briefing from the Federal Aviation Administration (FAA) on development requirements around airfields. The City of Virginia Beach is willing to take the lead in coordinating this briefing for citizens throughout the area.

4. Adopt expanded sound attenuation requirements for new residential construction in noise affected areas.

Though some sound mitigation measures are part of current building codes, local governments pursuing this tool would work through the state building code review authorities to strengthen and expand existing attenuation practices within the region. Standard construction typically reduces outdoor to indoor noise by about 20 dB to a level of 40-45 DNL. Current Navy guidance, however, recommends a residential Noise Level Reduction (NLR) of at least 25 dB in 65-70 DNL; a NLR of 30 dB in 70-75 DNL; and NLR of at least 35 dB in 75+ DNL. The current state building code requires a reduction in average noise to these levels; however, further reduction should be investigated and implemented if deemed appropriate and/or feasible. In addition, noise zone reductions for residential structures in noise zones of 60-65 DNL (by approximately 20 dB) should be researched and considered by the regional jurisdictions. For reference purposes, sample noise reduction standards for residential construction (developed by the Eastern Carolina Council of Governments for the area around MCAS Cherry Point) are provided in Appendix 2.

Implementation would result in a tiered structure that requires sound protection beyond standard building methods based upon AICUZ noise contours. As part of this strategy, jurisdictions would set sound mitigation conditions for any new residential construction in a noise zone that meet the recommended indoor NLR standards based upon Navy guidance and noise attenuation codes in other communities. Changes in the Virginia State Building Code will likely be required in order to mandate and enforce expanded noise attenuation standards in new construction.

5. Enforce enhanced sound attenuation practices.

This tool emphasizes the active local enforcement of strengthened noise attenuation construction standards to ensure that homes without adequate structural protection are not built within noise affected areas.

6. Require sound attenuation for schools in the AICUZ.

Along with housing, schools are among the most noise sensitive of uses. In buildings without adequate sound attenuation, aircraft noise may affect the cognitive abilities of school-age children. This tool is geared toward protecting the learning environment of schools by requiring that all new educational facilities built in noise affected areas meet the NLR. Research is needed to confirm the appropriate and feasible NLR that should be required for high noise areas around Navy airfields in Hampton Roads.

7. Implement recently-enacted State legislation requiring noise attenuation for certain non-residential structures in the AICUZ.

Certain non-residential structures including hospitals, churches, office buildings and other people intensive uses should be considered for noise attenuation in addition to residential dwellings. The Virginia State legislature has recently passed legislation allowing jurisdictions the authority to adopt regulations requiring sound attenuation for certain non-residential buildings (see Appendix 3). Research needs to be conducted on appropriate noise levels and noise attenuation techniques for these types of structures. Changes in the State Building Code can then be pursued to enable the Hampton Roads jurisdictions the ability to require noise attenuation as appropriate for proposed new structures in the AICUZ.

8. Promote improved sound attenuation construction practices.

As part of this strategy, local governments would establish partnerships with local schools and the regional building industry to support and promote innovative research and development activities during the construction of buildings in high noise zones.

9. Require early real estate disclosure in areas exposed to safety issues or average noise levels of 65 dB or higher.

As part of this tool, the region's three local governments would adopt enhanced disclosure provisions for real estate transactions in areas subject to safety issues or noise exposure of 65 dB or higher. This tool responds to recently-enacted State legislation requiring this disclosure for all residential property transactions in the AICUZ (see Appendix 3). The jurisdictions

would also work with the real estate community to educate members on the importance of early disclosure and seek endorsement of the recommendation itself.

A typical weakness of many disclosure procedures is that notice comes late in the decision-making process when individuals may have less flexibility to withdraw offers and when extensive paperwork can obscure the importance of information on certain property conditions. To ensure full and effective disclosure, local jurisdictions would work with the real estate community to develop standard language on noise and other possible operational impacts. This would result in a requirement to release this information at the earliest possible point of interaction between the realtor/real estate agent and the interested buyer/renter, such as the initial advertisement or listing of the affected property (e.g., Multiple Listing Service database). As part of this strategy, local governments would also work with real estate representatives to ensure compliance with disclosure provisions.

10. Consult with the Navy on the siting of future schools around existing airfields.

To ensure coordination on the critical issue of school sitings, all jurisdictions within the Hampton Roads region would consult with Navy representatives on the proposed placement of new educational facilities in the vicinity of the NAS Oceana, NALF, and Chambers Field. While the Navy cannot supersede the land use planning authority of local government entities, early coordination on siting options allows decision-makers to understand the likely noise exposure and safety risks associated with placement of a school near an airfield.

11. Educate public on existing airfield noise and safety ordinances and restrictions in place to reduce air operations impacts.

Continued public education is necessary to educate and remind Hampton Roads citizens of noise and safety restrictions in place to reduce impacts from Navy air operations. The full range of tools included in existing ordinances would be part of this public education process, including early disclosures, required sound attenuation measures, and land use, height and other restrictions on development. In addition, jurisdictions would educate members of the public on other activities which impair pilot vision, including, but not limited to, lights, smoke, and uses attracting waterfowl. Planners would inform prospective developers/land owners of these restrictions and other activities on parcels in the AICUZ negatively affecting air operations to encourage more compatible land use proposals.

5.3 Navy

The JLUS identifies the following communication, policy, acquisition, and military operations tools for the Navy (See Table 5.2).

1. Continue to expand educational outreach efforts.

One of the most effective means for strengthening the relationship between the Navy and its civilian neighbors is to help people understand how the military operates and why it generates certain impacts on surrounding areas.

The Navy currently offers a comment form that can be submitted electronically from its web site and also clearly identifies contact information for the community planning liaison office. A Flight Operations Information page from the web site provides a schedule of Routine Flight Operations activities and links to a separate AICUZ web site covering topics, such as noise, land use, and safety.

To support communications and information approaches to encroachment reduction, the Navy would continue to improve public communication through its outreach program to include re-establishing the Community Leaders Forum; updated and expanded noise mitigation procedures which are currently in place; education on the role of NAS Oceana, NALF Fentress, and Chambers Field in the Navy; the role of the Navy in the regional economy; and an updated brochure/map with detailed information on AICUZ and operational impacts. Advertising and promotion of these comment opportunities should be increased.

2. Strictly enforce existing easement restrictions around NAS Oceana and NALF Fentress.

The Navy currently holds development easements on some parcels surrounding NAS Oceana and NALF Fentress. The easements restrict development on the encumbered property to ensure compatibility with naval air operations. In conjunction with the JLUS effort, the Navy has begun a process of notifying affected property owners and conducting a survey to determine compliance with easement conditions. As part of this tool, the Navy would actively enforce development restrictions on existing easements to maintain compatibility around the airfields. The Navy would also coordinate with surrounding governments to ensure that all restricted properties are clearly identified and that easement conditions are enforced throughout all local planning and development approval activities.

3. Pursue development of an additional Outlying Landing Field in North Carolina.

Though its development is contingent on authorization and funding from other Federal entities, the Navy would pursue an Outlying Landing Field in North Carolina as a strategic addition to current Navy facilities. The ability to accommodate additional flight training activities at a site outside of developed areas in the Hampton Roads region would alleviate impacts around NAS Oceana and NALF Fentress.

4. When feasible, modify flight operations to minimize impacts on Hampton Roads developed areas.

Under this tool, the Navy would explore technically feasible modifications to flight operations and reduce flight activities over developed areas of Hampton Roads to the minimum levels necessary to support a viable military mission. The Navy would also advance operational strategies by educating the public about previous changes in training activity that reduced noise and safety impacts on surrounding areas.

5. Pursue conservation opportunities in the DoD Easement Partnership Program.

In 2002, Congressional legislation (Agreements to Limit Encroachments and Other Constraints on Military Training, Testing, and Operations) granted authority to the Department of Defense to partner with local governments and conservation organizations. The DoD may use this authority to assist in acquiring land near military bases when the acquisition can protect both the environment and the military mission.

The Navy can capitalize on this additional acquisition strategy by pursuing available funding opportunities within the DoD Encroachment Partnership Program. Establishing partnerships among the military and local, state, and non-profit entities would enable a quick and effective response when priority real estate acquisition opportunities emerge and can leverage the Navy's existing encroachment prevention efforts.

5.4 The City of Norfolk

The JLUS identifies the following land use and policy tools for the City of Norfolk (See Table 5.3).

1. Expand the existing Airport Safety Ordinance.

The City of Norfolk currently addresses safety and height restrictions in the vicinity of Norfolk International Airport and Chambers Field through the use of Accident Potential Zones and language based on FAA height guidance. As part of this land use strategy, the City would establish new development controls regarding compatible land uses in noise zones and APZs around Chambers Field. The Overlay District would retain the baseline zoning but limit increased residential densities in compliance with OPNAV guidance, where compatible with existing land uses. The District would also require disclosure for real estate transactions and sound attenuation for new residential construction in noise exposed areas.

2. Establish a Voluntary Property Acquisition Program.

In pursuing an acquisition approach to encroachment reduction, the City of Norfolk would establish a Voluntary Property Acquisition Program. The program would allow the City to acquire, as available Federal or other resources permit, the fee simple purchase from willing sellers of existing properties within the Clear Zones of Chambers Field. Acquisition of these properties would create a land buffer around active military runways and protect public safety by enabling relocations to areas outside of high accident potential.

5.5 The City of Chesapeake

The JLUS identifies the following land use and policy tools for the City of Chesapeake (See Table 5.4).

1. Revise existing Cluster Zoning Ordinance to recognize those portions of a parcel within noise and safety zones as prime candidates for clustering development.

The City of Chesapeake has adopted a Cluster Zoning Ordinance intended to maintain undeveloped land, give greater flexibility in site design, and permit multiple development options that accommodate the individual features of properties. Clustering can be an effective tool in promoting land use compatibility around military installations, particularly on larger parcels that straddle an AICUZ boundary.

Conventional zoning typically spreads housing units evenly across a parcel regardless of landscape context. As part of a cluster zone, in contrast, developers must separate the developable areas of the parcel from environmentally sensitive areas. The zone allows more compact lots in the developable portion of the site in exchange for the permanent protection of site land with conservation value. Cluster subdivisions are usually intended to protect landscape features, such as water bodies, wetlands, wildlife habitat, scenic views, and historic sites.

To ensure that this land use tool can effectively reduce future development impacts around NALF Fentress, the City of Chesapeake would implement a revised provision of Cluster Zoning Ordinance that recognizes those portions of a parcel within an AICUZ as prime candidates for the application of clustering. This particular application of cluster zoning would set aside areas subject to noise and safety constraints and allow denser, but compatible, development in areas outside of noise and hazard zones.

2. Implement Comprehensive Plan that supports an integrated set of rural preservation planning policies.

In its recently approved Comprehensive Plan, the City of Chesapeake identified a series of policies intended to protect rural areas, including the Open Space and Agriculture Preservation Program, a Cluster Zoning and Cluster Subdivision Ordinance, rural design guidelines, and Level of Service standards. Since NALF Fentress is within a rural area, the City of Chesapeake could pursue an effective policy strategy of encroachment reduction by implementing the Comprehensive Plan's cohesive approach to rural preservation.

3. Expand the Fentress Overlay District to recognize the potential land use conflicts resulting from noise exposure of 65 dB or higher.

Currently, the City of Chesapeake's Fentress Overlay District regulates land uses for installation compatibility within the 75 dB or higher noise zone. Under this land use strategy, Chesapeake would expand land use controls to those properties exposed to average noise levels between 65 dB and 75 dB. This additional layer of development regulation would retain existing zoning within the 65 DNL to 75 DNL noise contours, but would include certain appropriate provisions of the existing Fentress Overlay District in the expanded area, as well as other appropriate provisions such as noise attenuation standards, as permitted by State Law. The City would also continue to regulate property within the 75 dB or higher noise zone in accordance with the OPNAV instruction.

4. Establish an aviation easement program.

An aviation easement is a land use tool that allows property owners to develop land in accordance with the applicable zoning district but provides the military a clear property right to maintain flight operations over the affected parcel. The easement runs in perpetuity with the deed to the property and protects against lawsuits for military-related operational impacts. This type of easement is being increasingly used to protect military air operations in airfields adjacent to developing areas.

In using this tool, the City of Chesapeake would establish an aviation easement program in noise and safety affected areas. The program would permit the City to make aviation easements available as a voluntary option to developers during proffer or other special permitting processes. The City would offer this easement as a positive element in considering the applicable permitting decision, where necessary. The City would also enforce the easement, ensuring that air rights above new developments with the easement are maintained. A sample easement that was developed for properties around NAS Pensacola in Florida is included in Appendix 4 for reference purposes.

5.6 The City of Virginia Beach

As part of this JLUS, the City of Virginia Beach has conducted a number of public meetings and worked extensively with the Navy to develop policies responding to Navy air operations at NAS Oceana and NALF Fentress. In February 2005, a Sub-Committee was established by the JLUS Policy Committee specifically to deal with AICUZ and noise issues in the City, primarily around Oceana. This section of the report documents recommendations put forward by this Sub-Committee in March 2005 along with planning policies and land use provisions developed by City planning officials. These recommendations, incorporated herein as JLUS recommendations for Virginia Beach, include the following::

- Statement of Understanding between the City of Virginia Beach and U.S. Navy
- Related City of Virginia Beach Planning Provisions
- Proposed Framework for an AICUZ Overlay Ordinance

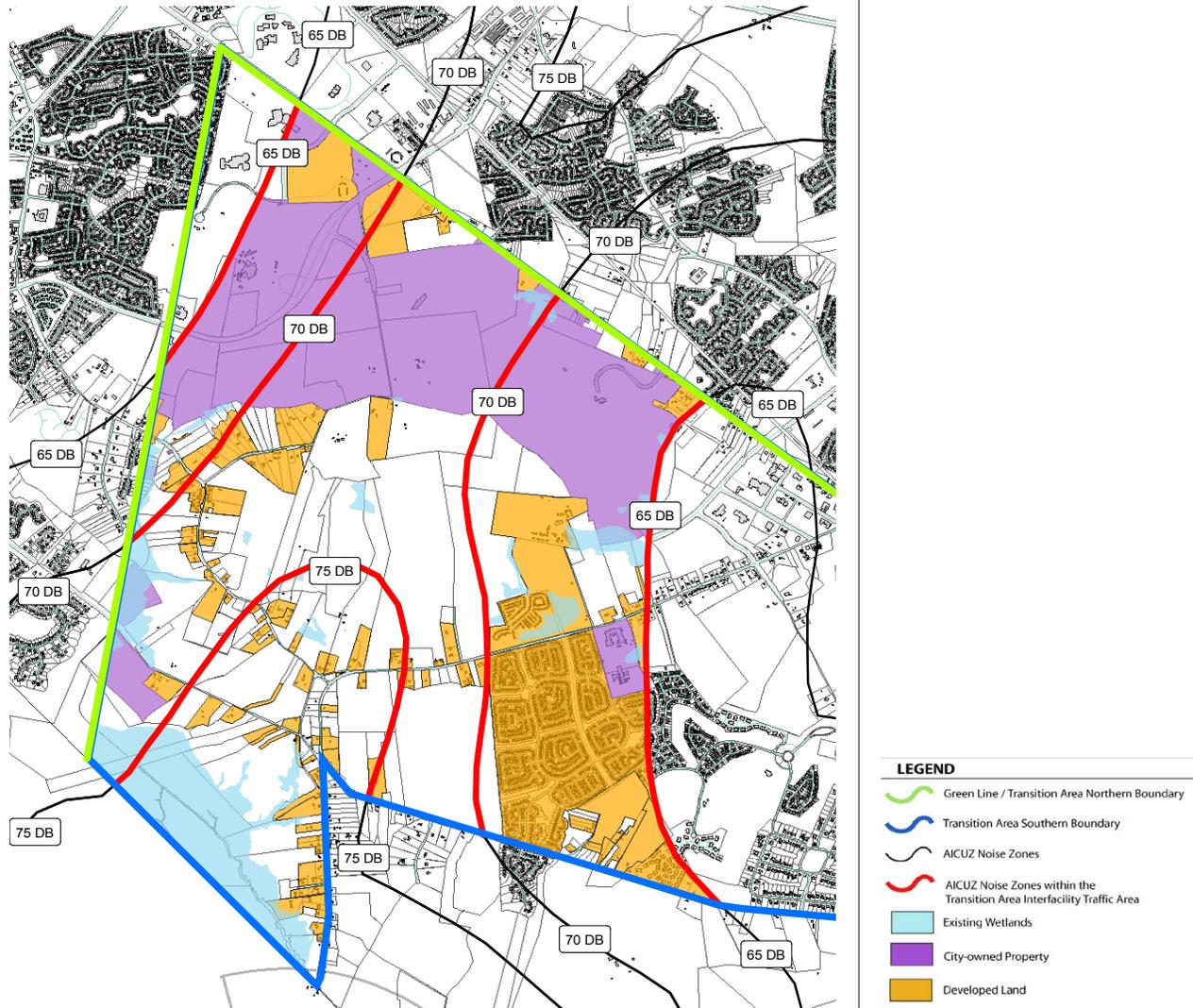
Each of these is summarized below. The Statement of Understanding is provided in complete form in Appendix 5.

Statement of Understanding between the City of Virginia Beach and the U.S. Navy

This statement provides a complete and detailed description of AICUZ-related understandings and actions by both parties (reference Appendix 5). A summary of proposed City actions included in this statement is provided as follows:

- The City would create a new process for Navy officials to review and comment earlier in the process on all proposed development that might encroach on NAS Oceana.
- The City would ask any person or organization proposing development that might be incompatible with the Navy's AICUZ guidelines to meet with Navy officials to discuss alternatives.
- The City would consider fundamental changes in the zoning ordinance to substantially reduce the number of residential units allowed by current zoning in the Resort Area.
- The City would adopt a Zoning Overlay District in all noise zones greater than 65 dB DNL to help prevent encroachment at NAS Oceana.
- The City would recognize the importance of NAS Oceana's Interfacility Traffic Area (i.e., the corridor of land underneath the flight path between NAS Oceana and NALF Fentress; see Figure 5.1) in the City's Transition Area by:
 - Retaining agricultural zoning of one residential lot per 15 acres in the highest noise zone, 75 dB DNL and above.
 - Amend the Comprehensive Plan to retain residential density not to exceed one dwelling per five acres in the 70-75 dB DNL noise zone, as allowed by a conditional use permit.
 - Limit density to one dwelling per acre in the 65-70 dB DNL noise zone
- Based on legislation passed by the General Assembly at the request of the City, sound attenuation laws would be expanded to certain non-residential uses and disclosures of noise and/or accident potential zones would be improved for the sale or lease of residential units.
- The City would initiate a working group with NAS Oceana to work with the Virginia Real Estate Board to review, and possibly revise, all disclosures currently in use for noise and/or accident potential zones and determine where disclosures might be needed where none are used now.
- The City would recognize the Navy's significant concern about the impact of future development on transportation needs by agreeing to keep the Navy effectively involved in such planning processes.

Figure 5.1 City of Virginia Beach Interfacility Traffic Area



Source: City of Virginia Beach Planning Department, April 2005

- The City would continue to include the Navy as a vital stakeholder in revising the Oceanfront Resort Area Concept Plan (see Figure 5.2).
- The City would strengthen its working relationship with the Navy and create an ongoing, open dialogue to address the Navy's concerns about potential encroachment at NAS Oceana.

Related City Planning Provisions

In addition to the Statement of Understanding developed by the JLUS Sub-Committee and the proposed AICUZ Overlay Ordinance proposed by the City, the JLUS identifies the following land use and policy tools for the City of Virginia Beach (see Table 5.5).

1. Establish a Virginia Beach Re-development Strategy as part of the Comprehensive Plan and other land use policies.

Local governments can reduce development pressure on undeveloped land around airfields by promoting growth in existing built-up areas of the community away from the airfield. As part of this strategy, the City of Virginia Beach has identified in its adopted Comprehensive Plan certain Strategic Growth Areas that may be revitalized using a series of voluntary, incentive-based tools to guide growth to these areas. Examples of measures to spark private investment in designated redevelopment areas could include:

- government investments in infrastructure and the public realm
- tax incentives
- low interest loans
- density bonuses
- fast-track permit approval

A policy emphasis that encourages the re-use of land and the filling in of spaces around built areas relieves some of the future development pressure on undeveloped land around NAS Oceana. Before initiating this strategy, the City would conduct a campaign of public involvement regarding the goals of redevelopment. One of the objectives would be to improve the compatibility of land uses within AICUZ areas.

It is also important to note that the policies of the City's adopted Comprehensive Plan recognize that established residential neighborhoods in the City will be protected against intrusive land uses that destabilize them.

Figure 5.1 City of Virginia Beach Resort Area



Source: City of Virginia Beach Planning Department, April 2005

2. Pursue purchase of impacted properties in the > 70 dB DNL area of the Transition Area for Open Space.

Under this strategy, the City would assemble available funding from Federal, State and local sources to purchase land from **willing** sellers in noise zones greater than 70 dB DNL in the Transition Area to designate as public open space. This strategy would reduce the potential for future incompatible uses in this area while compensating the property owners willing to participate in such a program.

Purchase arrangements could include fee simple sales at fair market value or the purchase of development rights from willing sellers. With the purchase of development rights, land ownership remains private and land owners may continue use of the land for those activities, such as agriculture or recreation, that require minimal development and maintain compatibility with airfield operations. The local government or a partnering non-profit agency then holds the conservation easement, which restricts development on the land in perpetuity.

3. Expand or modify land acquisition and protection programs in the Transition Area.

Using environmentally sensitive open land located within the AICUZ noise and safety zones as a guide, the City would investigate means of acquiring additional parcels for designation conservation areas and public open space. Previous studies identifying many of these lands would serve as guides in prioritizing acquisition of parcels (e.g., the SWAMP study described in Section 3.2). Lands identified for wetlands mitigation purposes related to the proposed Southeastern Parkway and Greenbelt would also be considered as potential AICUZ conservation areas. Targeting existing open space within the sensitive areas for protection would preclude future incompatible development within the AICUZ zones.

Because of increasing potential noise conflicts, lands with conservation potential within the flight corridors between Oceana and Fentress in the Transition Area (see Figure 5.1) would be a priority for future purchase and protection. Funds from existing Open Space, Agricultural Reserve or other programs could be targeted for these land and conservation purchases.

4. Seek Federal funding to purchase conservation lands.

To further promote conservation options and reduce future incompatible land uses, the City of Virginia Beach would pursue Federal funding to purchase conservation lands in the AICUZ. With new funding available through the Encroachment Partnering Program (EPP), the Navy is a potential partner for funding sources that meet the dual purpose of environmental protection and buffering military operations. Other potential Federal funding sources for conservation purposes are identified in Appendix 6.

5. Establish an avigation easement program.

As described above for Chesapeake, the City of Virginia Beach would establish an avigation easement program in noise and safety affected areas. The program would protect air rights and be available as a voluntary option to developers during proffer or other special permitting processes for properties being considered for development in the AICUZ. A sample easement that was developed for properties around NAS Pensacola in Florida is included in Appendix 3 for reference purposes.

Proposed Framework for AICUZ Overlay Ordinance

City of Virginia Beach planning officials have developed an initial framework for additional land use regulations for properties in the AICUZ Noise Zones. This framework is proposed as an AICUZ Overlay District Ordinance that would only be established following a public review process and subject to Planning Commission review and City Council approval subsequent to this JLUS planning effort. This Overlay District proposal is summarized below and listed in Table 5.5.

Purpose: To provide a framework for further discussion concerning the specific means to accomplish the overall objective of protecting the public health, safety and welfare and to prevent encroachment from degrading the operational capability of local military installations in meeting national security needs. This proposal contemplates the adoption of land use regulations that allow reasonable land use compatible with noise levels and accident potential associated with flight operations at NAS Oceana.

Summary: The City will establish an AICUZ Overlay District in all Noise Zones other than < 65 dB DNL (per 1999 AICUZ Map).

- The Overlay District regulations will apply in all underlying zoning districts within the Overlay. Where the Overlay District regulations

conflict with the regulations of the underlying zoning district, the Overlay District regulations would control.

- Overlay to be comprised of same areas that are on the 1999 AICUZ Map, except Noise Zone < 65 dB DNL (i.e., in Noise Zones 65-70, 70-75, > 75 dB DNL and Clear Zone, Accident Potential Zone 1 and Accident Potential Zone 2). In addition, there would be special provisions applicable in the portions of the Interfacility Traffic Area that are in Noise Zones of greater than 70 dB DNL and in the Resort Area as areas presenting special considerations.

In general, the regulations of the Overlay District would be the least restrictive in the lowest Noise Zones and graduate to more restrictive levels in high noise zones, with greatest restrictions being in the Accident Potential Zones and Clear Zones. With certain exceptions, the restrictions would generally correspond with the guidelines set forth in Table 2, *Suggested Land Use Compatibility in Noise Zones* and Table 3, *Suggested Land Use Compatibility in Accident Potential Zones* of OPNAV Instruction 11010.36B.

The Navy and the City agree that, under the OPNAV instructions, residential development in areas of 65 dB DNL and greater is not compatible with airfield operations.

The Navy disagrees with allowing any further incompatible development. However, the Overlay Ordinance would neither restrict the uses of property that are allowed 'by-right' per the City Zoning Ordinance nor restrict the uses of property in the 65-70 dB DNL Noise Zone.

Sound attenuation would be required everywhere in the AICUZ Overlay District (i.e., in all Noise Zones >65 dB DNL) for all residential development and for certain non-residential uses within the following use groups:

- Assembly (churches, movie theaters, bars restaurants, bowling alleys, etc.);
- Business (banks, barber shops, car showrooms, professional offices, etc.);
- Educational (schools through 12th grade);
- Institutional (hospitals, day care, nursing homes, etc.); and

- Mercantile (department stores, drug stores, grocery stores, etc.)

The AICUZ Overlay Ordinance provisions would apply to development in the 70-75 and >75 dB DNL Noise Zones that requires approval by the City Council (i.e., rezonings & conditional use permits). Discretionary development (i.e., needing a rezoning or conditional use permit) would be allowed only if:

- it is compatible or conditionally compatible with the AICUZ recommendations in Table 2 (noise zones) and/or Table 3 (APZs) of OPNAV Instruction 11010.36B; or
- if not compatible or conditionally compatible, such development would be allowed only if the City Council makes a finding that no other reasonable development options that are compatible with the AICUZ recommendations in Table 2 and/or Table 3 exist.

In such cases, development must be at the lowest reasonable density or intensity, as determined by the City Council.

Special Areas:

Within the western portion of Transition Area also known as the Interfacility Traffic Area (see Figure 5.1), the following provisions would apply:

- 65-70 dB DNL Noise Zone: Current zoning and Comprehensive Plan provisions retained;
- 70-75 dB DNL Noise Zone: Residential development requiring City Council approval, (i.e., rezoning or by conditional use permit) allowed at a density no greater than one (1) dwelling unit per five (5) acres of developable land.
- >75 dB DNL Noise Zone: Residential development limited to one (1) dwelling unit per fifteen (15) acres of developable land unless the City Council determines that such density is unreasonable and that no other use (non-residential) is reasonable. In such a case, allowed density would be the minimum reasonable density.
- Where the subject property lies within more than one Noise Zone, dwelling units must be located in lower Noise Zones if practicable.

Within the Resort Area, the following provisions would apply:

- The total number of residential units will not exceed the aggregate number of units allowed under current zoning. The City will endeavor to work with all stakeholders to reduce the number of residential units

significantly below that number through zoning ordinance amendments.

- The Navy shall be among the stakeholders involved in the revision of the Oceanfront Resort Area Concept Plan dated June 28, 1994.

The AICUZ Overlay regulations represent the City's best efforts to balance the needs of the Navy in fulfilling its mission with the rights of citizens to make reasonable use of their property. The City has given careful consideration to both points of view and, to the extent possible, has crafted the Overlay regulations to serve both the needs of the Navy and the rights of property owners. While the regulations do not - and legally may not - eliminate all further development that is incompatible with the AICUZ program, they represent a significant increase in the extent to which AICUZ - related considerations govern land use decisions in Virginia Beach. The regulations will also ensure that, in cases in which incompatible development is approved by the City Council,:

- it will be at the lowest reasonable density, and
- appropriate sound attenuation measures will be required.

The overall effect of the application of the Overlay regulations will be to bring the City's development policies into a much higher degree of conformity with the Navy's AICUZ program than they ever have been, even under the prior OPNAV Instruction.