



# TOWN OF CHAPEL HILL NORTH CAROLINA

## MEMORANDUM

**TO:** Planning Commission

**FROM:** Mary Jane Nirdlinger, Planning & Sustainability  
Gene Poveromo, Development Manager  
Eric Feld, Community Sustainability Planner II

**SUBJECT:** Land Use Management Ordinance Text Amendment – Airport Hazard District Overlay Regulations

### Recommended Action

- That the Planning Commission receives the information and resident comments associated with tonight's agenda item.

### Explanation of Recommendation

- The Land Use Management Ordinance (LUMO) requires the Planning Commission to forward a recommendation to the Council on proposed text amendments. This item is tentatively scheduled for an October 19, 2015 Public Hearing.

### Background

- The Town received an application from Hawthorn Development LLC (attached) proposing an amendment to the Airport Hazard District. The application is associated with a proposed development at 700 N Estes Dr. (presented as a Concept Plan to the Town Council at the [April 20, 2015 Business Meeting](#)<sup>1</sup> and the [May 4, 2015 Work Session](#).<sup>2</sup>)
- At the [June 22, 2015 Business Meeting](#)<sup>3</sup> Whit Rummel, who owns the lot at 700 N. Estes Dr., asked the Council to also consider amending the Airport Hazard District on an adjacent lot at 710 N Estes Dr. In response to the petition, the Council directed staff to consider the Airport Hazard Zone on Mr. Rummel's property, as well as an adjoining site to the east, 850 N Estes Dr.

### Context with Key Issue

- We anticipate receiving a Special Use Permit application for a proposed retirement community development (800 N Estes Dr.), as described by the Concept Plan presented

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<sup>1</sup> <http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=3176&meetingid=336>

<sup>2</sup> <http://chapelhillpublic.novusagenda.com/Bluesheet.aspx?itemid=3206&meetingid=338>

<sup>3</sup> [http://chapelhill.granicus.com/MediaPlayer.php?view\\_id=7&clip\\_id=2430&meta\\_id=99429](http://chapelhill.granicus.com/MediaPlayer.php?view_id=7&clip_id=2430&meta_id=99429)

to the Council earlier this year. In order for the Council to consider the Special Use Permit, it would be necessary for the Council to amend the Airport Hazard District. We are not aware of any pending or future development proposals for the 710 or 850 N Estes Dr. sites.

### **Next Steps**

- Following tonight's meeting, staff will collect feedback received and return to Planning Commission on September 15, 2015 with additional information, including possible options responding to the application to amend the Airport Hazard District and Council's request for an analysis of the overlay zone.

### **Fiscal Note**

- No fiscal impact is determined at this time.

### **Attachments**

- Staff memorandum
- Application from Hawthorn Development, LLC
- Questions from July 23, 2015 Public Information Meeting
- Emails with questions from residents
- Historical documents provided by residents
- 1981 Ordinance creating Airport Hazard District
- 1981 Council minutes discussing Airport Hazard District
- Information from the petitioner

## MEMORANDUM

**TO:** Planning Commission

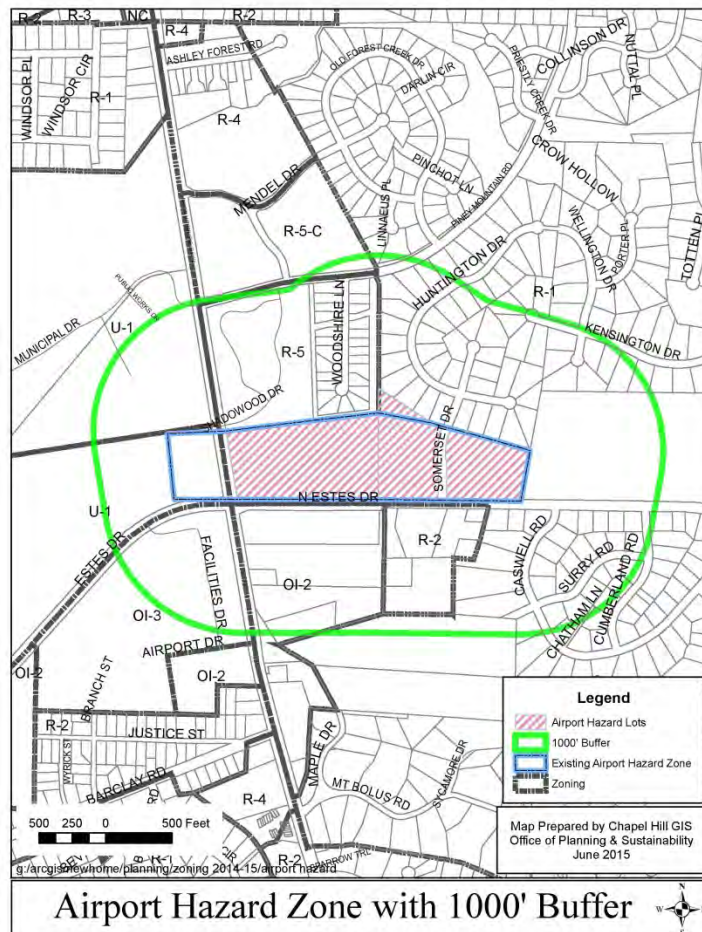
**FROM:** Mary Jane Nirdlinger, Planning & Sustainability  
Gene Poveromo, Development Manager  
Eric Feld, Community Sustainability Planner II

**SUBJECT:** Land Use Management Ordinance Text Amendment – Airport Hazard District Overlay Zone Regulations

**DATE:** August 18, 2015

### PURPOSE

Tonight, the Commission will begin to consider if the standards and restriction associated with the Airport Hazard District overlay zone should be amended.



## **AIRPORT HAZARD ZONE (700, 710, 850 N. Estes Dr.)**

The property under consideration is currently zoned Residential-2. This zoning district allows a maximum floor area of .093, a minimum lot size of 10,000 square feet, and a maximum building height of 50 feet. The airport hazard overlay zone imposes floor area ratios and minimum lot size that are more restrictive than the underlying zoning district. For example, the overlay zone allows a maximum floor area ratio of .018 and minimum lot size of 500,000 square feet (approximately 11.5 acres).

The airport hazard zone does not include a maximum height standard. As best as we currently understand FAA regulations, except for a portion of the 850 N Estes Dr. site, located adjacent to Martin Luther King Jr. Blvd., the R-2 zoning district height limit of 50 feet is stricter than the height limits prescribed by Federal Aviation Administration (FAA) regulations.

Following the airport hazard overlay district restrictions, a property owner could construct a 9,000 square foot building (single family home, duplex; or multi-family, daycare, place of worship with Site Plan Review approval) on an 11.5 acre lot. With any proposed application, staff would require FAA review on the proposed building height.

### **BACKGROUND**

#### ***Horace Williams Airport Quick Facts***

- Horace Williams Airport (IGX), located at 1001 Estes Drive, is a public use airport owned and operated by the University of North Carolina at Chapel Hill.
- Air traffic at IGX is closed to aircraft 12,500 pounds or greater.
- IGX prohibits aircraft which create more than 85 decibels measured sound level at 100 feet altitude (comparable to the sound intensity of city traffic from inside of a car)
- Hours of operation are Monday through Sunday from 6:00 a.m. to 9:00 p.m.
- Dimensions of the runway are 4,005 feet long by 75 feet wide.
- The maximum total number of aircraft based at IGX cannot exceed 50.
- There are no limitations to number of daily arrivals and departures at IGX.

#### ***History of the Horace Williams Airport (IGX)***

The following provides an abbreviated timeline of key events in the history of IGX:

- 1928: Charlie Lee Martindale builds the Chapel Hill Airport on 50 acres. One of the first airfields in North Carolina, the Chapel Hill Airport offers air shows and pilot training.
- 1940: Chapel Hill Airport (also known as Martindale Airport) purchased by the UNC and renamed Horace Williams Airport for the professor who donated acreage for expansion



of the airport. Airport becomes a Navy pre-flight school for more than 20,000 personnel, including Gerald Ford and George W. Bush.

- 1941: Original Martindale hanger burned and replaced.
- 1946: Horace Williams Airport decommissioned. Airport becomes a civilian facility.
- 1961: Carolina Flying Club founded.
- 1968: Horace Williams Airport begins housing Area Health Education Centers (AHEC) UNC Air Operations for doctors to provide medical training throughout North Carolina.
- 1981: Airport Hazard District established as part of the Chapel Hill Zoning Ordinance.
- 1989: Airport runway extended to 4,000 feet. In response to resident concerns, Chancellor Fordham agrees to phase out non-University use.
- 2002: UNC Board of Trustees announces that it will close the airport for the future Carolina North campus. North Carolina General Assembly delays closing for at least three more years.
- 2009: Carolina North Development Agreement approved by the Town Council. Long range plans identify replacing the airport with a north campus facility and buildings.
- 2011: AHEC shifts base operations from Horace Williams Airport to Raleigh Durham International Airport.

### ***History of the Airport Hazard District***

The Council formally created the Airport Hazard District overlay zone with enactment of the Chapel Hill Zoning Ordinance (ordinance #81-O-34) on May 11, 1981. To date, we have not identified information in the official Town record to explain the justification for enacting the established minimum gross land area requirement and maximum floor area ratio allowance. Minutes from the February 23, 1981 Regular Council Meeting recall that a developer agreed to leave space for the airport hazard zone in exchange for greater density in the developed area at Coker Hills West.

### ***Ongoing Airport Operations***

Throughout its history, the IGX has seen schools and neighborhoods develop nearby along Estes Drive. Given its proximity to these uses, there have been community conversations regarding noise, safety, and environmental sustainability leading some neighbors to petition for the airport's closure.

As a University of North Carolina facility, closure of the airport requires an act of the North Carolina General Assembly. Although the University has planned to close IGX since 2002 to provide space for the new Carolina North campus, the General Assembly has not yet set a date for the airport's closure.

### ***Federal Aviation Administration Guidelines***

The Federal Aviation Administration (FAA) establishes standards for determining obstructions to air navigation that may affect the safe and efficient use of navigable airspace, as well as the operation of existing facilities (e.g. Horace Williams Airport). The standards (found in [Part 77 of the Electronic Code of Federal Regulations](#)<sup>4</sup>) apply to any object of natural growth (e.g. trees), permanent and temporary construction or alteration, and equipment. These standards also require that development applicants proposing construction or alteration within 20,000 feet of the runway at IGX contact the FAA to determine whether the proposed height is likely to pose a hazard to air navigation.

### ***North Carolina General Statute***

North Carolina General Statute 63-31 provides for adoption of municipal airport zoning regulations as follows:

“In adopting or revising any such zoning regulations, the political subdivision shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, the possibility of lowering or removing existing obstructions, and the views of the agency of the federal government charged with the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport.”

To date, the University has not informed the Town of issues from the local airport authority associated with our present level of off-site zoning control. Prior to Council approval of any changes to the Airport Hazard District regulations, we will seek input from the University.

### ***Central West Small Area Plan***

The [Central West Small Area Plan](#)<sup>5</sup> includes the portion of the Airport Hazard District north of Estes Drive. The Central West Small Area Plan implementation steps include Council consideration of removing or lessening Airport Hazard District restrictions.

The Central West Small Area Plan also calls for higher densities along Martin Luther King Jr. Boulevard transitioning to lower densities to the east. A concept plan within the small area plan recommends heights from 3 to 4-5 stories with mixed use development in the Airport Hazard District, including an anchor use (e.g. mixed use or hotel) with adjacent retail/dining and public plaza or green space.

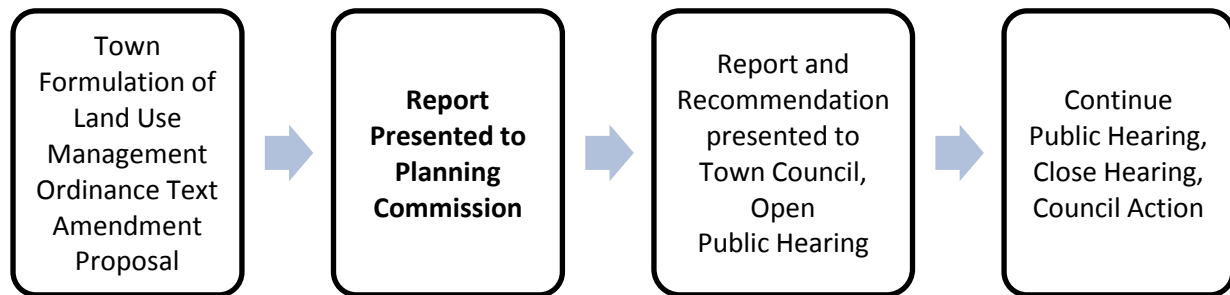
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<sup>4</sup> [http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=14:2.0.1.2.9#se14.2.77\\_119](http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=14:2.0.1.2.9#se14.2.77_119)

<sup>5</sup> <http://www.townofchapelhill.org/home/showdocument?id=24886>

## PROCESS

The request to modify the Airport Hazard District regulations is being proposed as a Land Use Management Ordinance text amendment. The Land Use Management Ordinance requires the Town Manager to: 1) conduct an evaluation of the proposed text amendment; 2) present a report to the Planning Commission; 3) hold a public hearing; and 4) present a report and recommendation to the Town Council.



### Public Information Meeting

The Town hosted a public information meeting in the Town Hall Council Chamber on July 23, 2015 to share the application and petition to amend the Airport Hazard District regulations. Additionally, Town staff discussed and responded to questions regarding the approval process. Notice of the public information meeting was posted on the Town's website and was sent by postcard to all property owners within 1000 feet of the eastern Airport Hazard District according to Orange County land records.

## RECOMMENDATIONS

That the Planning Commission receives the information and resident comments associated with tonight's agenda item.

ATTACHMENT 2

**Application from Hawthorn Development, LLC**

# Daniel Roach architect

Friday, April 17, 2015

Judy Johnson, Principal Planner  
Town of Chapel Hill  
Current Development / Planning and Sustainability  
405 Martin Luther King Jr Blvd.  
Chapel Hill NC 27514

Re: Application Package for Text Amendment – Amending the Airport Hazard Overlay 3.6.1

Dear Judy,

As a follow up to the digital file that was sent to you earlier today, please find enclosed the following had copy items and fee check to complete the application submission for the text amendment application:

- Signed Zoning Atlas Amendment Application
- Fee check # 011917 payable to the Town of Chapel Hill in the amount of \$1619.00
- Fee check # 011946 payable to the Town of Chapel Hill in the amount of \$87.01
- Mailing List – Excel sheet
- Site Map identifying the proposed AH-2 boundaries
- FAA “Determination of No Hazard to Air Navigation Letter” dated 7/3/2014
- Proposed Revised Ordinance for the Airport Hazard Overlay 3.6,1
- Written narrative and Statement of Justification

Please let me know if you need any addition items for this submission, have any questions or if I can be of further assistance in this matter.

Thank you



Mark D. Lowen  
Land Use Manger

# ZONING ATLAS AMENDMENT APPLICATION



**TOWN OF CHAPEL HILL**  
**Planning Department**  
405 Martin Luther King Jr. Blvd  
phone (919) 968-2728 fax (919) 969-2014  
www.townofchapelhill.org

Parcel Identifier Number (PIN): 9788-55-1528

Date: 4/17/15

## Section A: Project Information

Project Name: Chapel Hill Retirement Residence

Property Address: 700 Block of N Estes Dr, Chapel Hill NC

Zip Code: 27514

Use Groups (A, B, and/or C): Existing Zoning District:

3 Story, 139 Suite Independent Living

Project Description:

Text Amendment of the Airport Hazard Overlay District 3.6.1 of the Chapel Hill Code of Ordinances

## Section B: Applicant, Owner and/or Contract Purchaser Information

### Applicant Information (to whom correspondence will be mailed)

Name: Mark Lowen obo Hawthorn Development LLC

Address: 3150 Kettle Ct SE

City: Salem

State: OR

Zip Code: 97301

Phone: 503-399-1090

Email: markl@lenityarchitecture.com

The undersigned applicant hereby certifies that, to the best of his knowledge and belief, all information supplied with this application is true and accurate.

Signature:

Date:

4/17/15

### Owner/Contract Purchaser Information:

Owner

Contract Purchaser

Name: Whitcom Rummell

Address: 201 Hillcrest Rd

City: Chapel Hill

State: NC

Zip Code: 27514

Phone:

Email:

The undersigned applicant hereby certifies that, to the best of his knowledge and belief, all information supplied with this application is true and accurate.

Signature:

Date:

4/16/15





**ZONING ATLAS AMENDMENT APPLICATION  
SUBMITTAL REQUIREMENTS  
TOWN OF CHAPEL HILL  
Planning Department**

The following must accompany your application. Failure to do so will result in your application being considered incomplete. For assistance with this application, please contact the Chapel Hill Planning Department (Planning) at (919)968-2728 or at [planning@townofchapelhill.org](mailto:planning@townofchapelhill.org). For detailed information, please refer to the Description of Detailed Information handout.

X	<b>Application fee</b> ( <a href="#">refer to fee schedule</a> )	Amount Paid \$	\$1619
X	<b>Pre-Application Meeting – with appropriate staff</b>		
X	<b>Digital Files</b> - provide digital files of all plans and documents		
X	<b>Mailing list of owners of property within 1,000 feet perimeter of subject property</b> ( <a href="#">see GIS notification tool</a> )		
X	<b>Mailing fee for above mailing list</b>	Amount Paid \$	\$87.01
X	<b>Written Narrative describing the proposal</b>		
X	<b>Statement of Justification</b>		
N/A	<b>Digital photos of site and surrounding properties</b>		
N/A	<b>Legal description of property to be rezoned</b>		
N/A	<b>Phasing Plan (if applicable) indicating phasing boundaries and phasing notes</b>		
N/A	<b>Reduced Site Plan Set (reduced to 8.5"x11")</b>		

**Plan Sets (10 copies to be submitted no larger than 24"x36")**

Plans should be legible and clearly drawn. All plan sets sheets should include the following:

- Project Name
- Legend
- Labels
- North Arrow (North oriented toward top of page)
- Property Boundaries with bearing and distances
- Scale (Engineering), denoted graphically and numerically
- Setbacks
- Streams, RCD Boundary, Jordan Riparian Buffer Boundary, Floodplain, and Wetlands Boundary, where applicable

**Area Map**

- a) Project name, applicant, contact information, location, PIN, & legend
- b) Dedicated open space, parks, greenways
- c) Overlay Districts, if applicable
- d) Property lines, zoning district boundaries, land uses, project names of site and surrounding properties, significant buildings, corporate limit lines
- e) 1,000 foot notification boundary





PROPOSED AH-2 SEGMENT TO AIRPORT HAZARD  
OVERLAY DISTANCE ORDINANCE 3.6.1.

Daniel Roach architect

3150 Kettle Court SE, Salem, Oregon 97301

P 503 399 1090 F 503 399 0565 w lenity@rchitecture.com

# Chapel Hill Retirement Residence

Chapel Hill, NC

**HAWTHORN**  
RETIREMENT GROUP

9310 NE Vancouver Mall Dr., Suite 200  
Vancouver, WA 98662-8210  
(360) 213-1550 Fax (360) 213-1540



Mail Processing Center  
Federal Aviation Administration  
Southwest Regional Office  
Obstruction Evaluation Group  
2601 Meacham Boulevard  
Fort Worth, TX 76193

Aeronautical Study No.  
2014-ASO-6407-OE

Issued Date: 07/31/2014

Whit Rummel  
Estes Development  
201 Hillcrest Road  
Chapel Hill, NC 27514

**\*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Building Estes Development
Location:	Chapel Hill, NC
Latitude:	35-56-15.29N NAD 83
Longitude:	79-03-08.56W
Heights:	454 feet site elevation (SE) 50 feet above ground level (AGL) 504 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)
- Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

**See attachment for additional condition(s) or information.**

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed and maintained in accordance with FAA Advisory circular 70/7460-1 K Change 2.

Any height exceeding 50 feet above ground level (504 feet above mean sea level), will result in a substantial adverse effect and would warrant a Determination of Hazard to Air Navigation.

This determination expires on 01/31/2016 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.

- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

**NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.**

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

If we can be of further assistance, please contact our office at (404) 305-7084. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2014-ASO-6407-OE.

**Signature Control No: 219844186-225595172**

( DNE )

Darin Clipper  
Specialist

Attachment(s)  
Additional Information  
Case Description  
Map(s)

## **Additional information for ASN 2014-ASO-6407-OE**

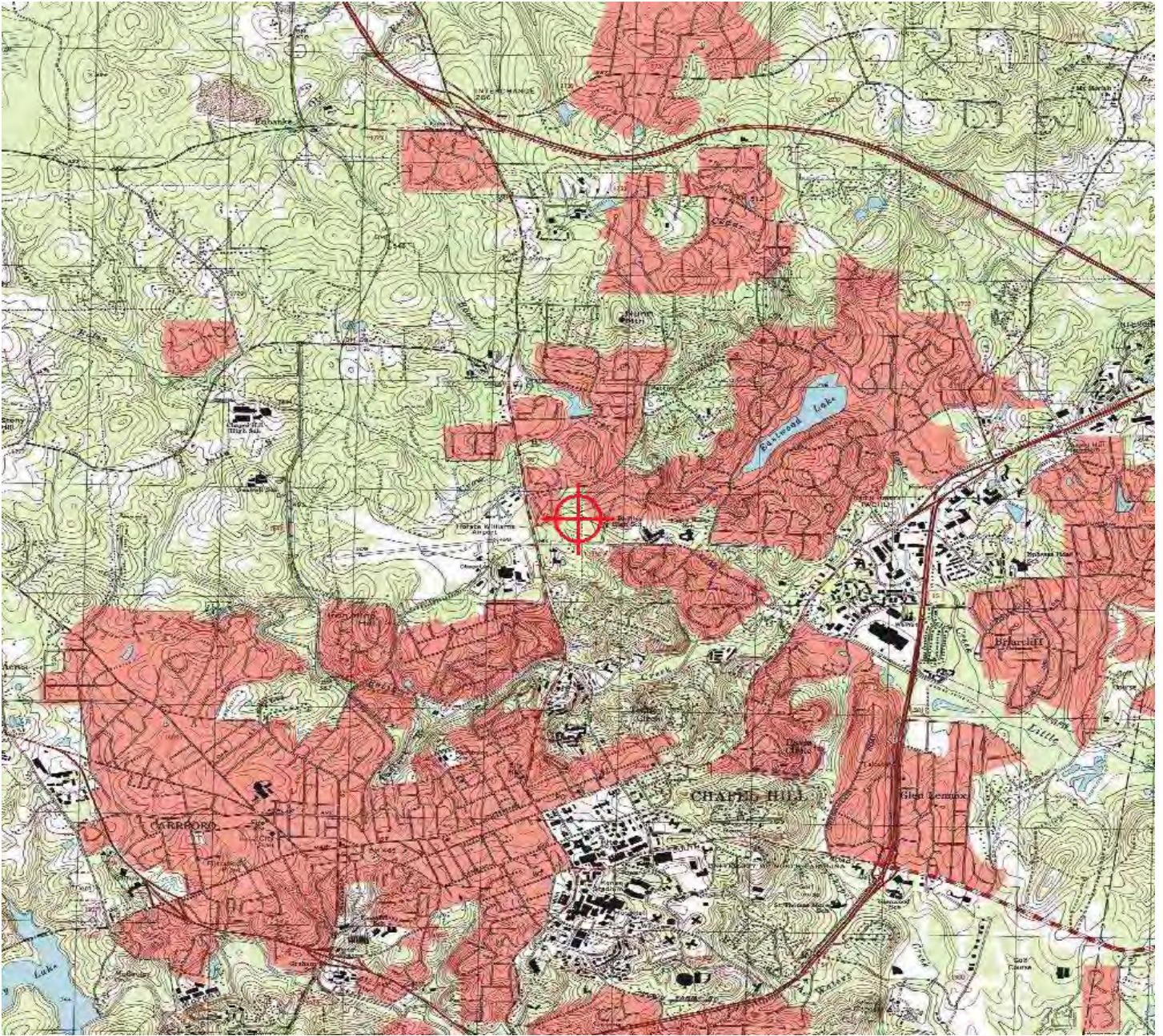
Determinations are for case studies 2014-ASO-6407-OE thru 2014-ASO-6411-OE. Studies represent property corner points at greatest site elevation and greatest height(s) of any structures contained within said boundaries.

If a structure would be built greater than 481 ft. AMSL, an aeronautical study must first be completed to ensure there would be no additional aeronautical impacts to IGX to ensure safety of air navigation and efficient utilization of navigable airspace by aircraft.

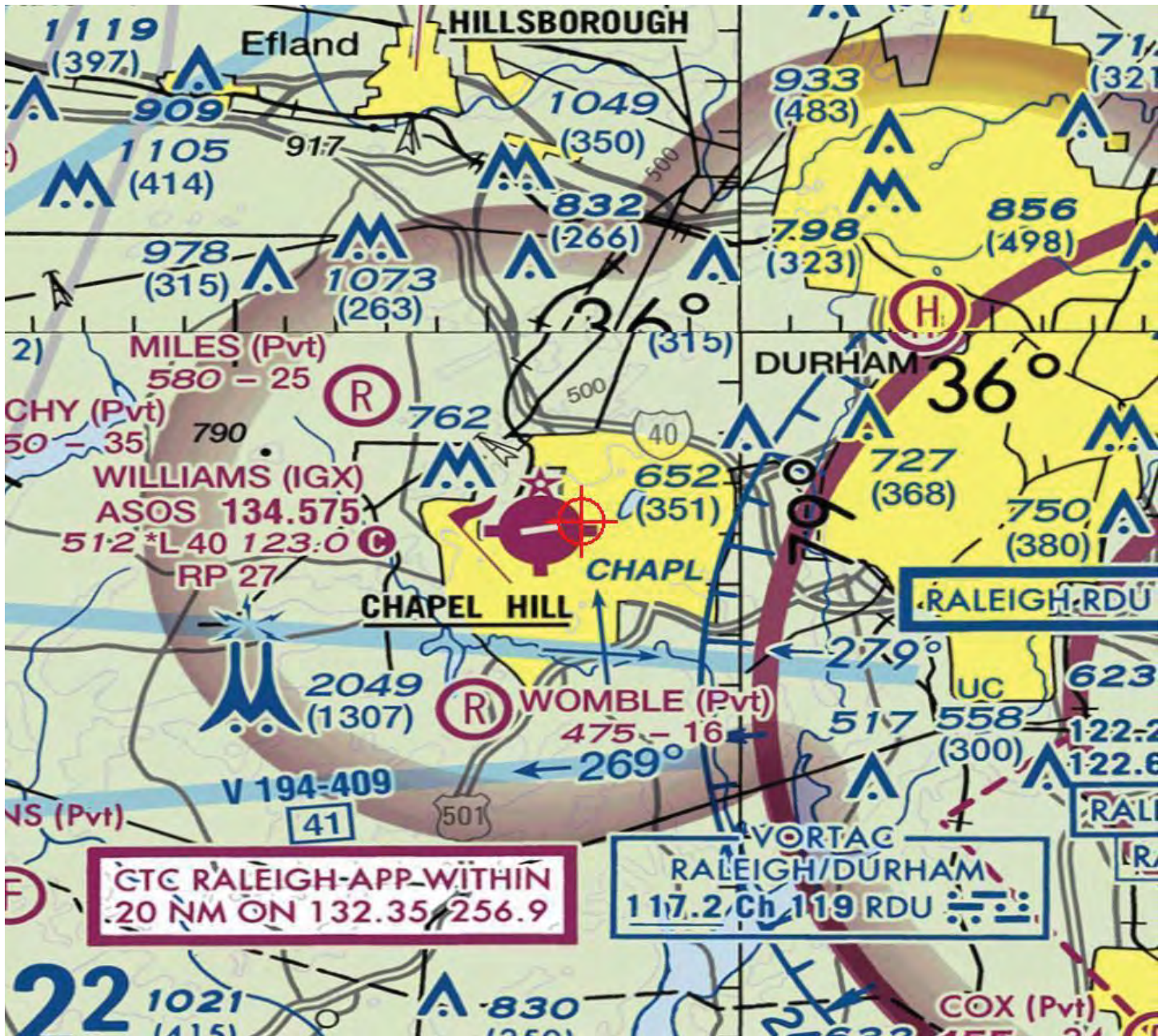
**Case Description for ASN 2014-ASO-6407-OE**

Please study all co-ordinates for Estes Development project (2014-ASO-6156-OE) at the same time











PROPOSED REVISED ORDINANCE A

AN ORDINANCE AMENDING THE LUMO FOR THE AIRPORT HAZARD DISTRICT(S)

*(Proposed amendments incorporated. Changes highlighted in **bold**.)*

3.6. Overlay Districts

Purpose statement: It is the intent of this section to provide for airport hazard districts, historic districts, neighborhood conservation districts, resource conservation district, and watershed protection district, which shall overlay the zoning districts enumerated in sections 3.3 through 3.5 above, and which shall provide for special review of development within such overlay districts in accord with the intents, procedures, and standards established for the districts in this article.

*3.6.1 Airport Hazard Districts.*

(a) *Intent.*

The airport hazard districts are intended to be applied to the approaches to run ways of airports or landing fields within the town's planning jurisdiction in order to minimize danger to lives and property of users of the airport and of occupants in its vicinity.

(b) *Establishment of airport hazard districts.*

The **airport hazard districts (AH and AH-2)** are hereby established. The boundaries of the airport hazard districts are as shown on the official zoning atlas.

(c) *Modified dimensional regulations: Airport Hazard (AH).*

Irrespective of the density or intensity regulations generally applicable to the underlying zoning district, the development of any land or structure within the Airport Hazard-I District shall comply with the following modified gross land area requirement and dimensional regulations for all uses within the district:

- **Minimum gross land area: Five hundred thousand (500,000) square feet.**
- **Maximum floor area ratio: 0.018**

(d) *Modified dimensional regulations: Airport Hazard-2 (AH-2).*

Irrespective of the density intensity regulations generally applicable to the underlying zoning district, the development of any land or structure within the **airport hazard-2** district shall comply with the following modified gross land area requirement and dimensional regulations for all uses within the district:

- (1) **Minimum gross land area: As specified for underlying zoning district.**
- (2) **Maximum floor area ratio: As specified for underlying zoning district.**
- (3) **Maximum height of structures: 50 feet.**

Application of these regulations shall be as established in section 3.8 of this appendix.

**PROPOSAL DESCRIPTION AND STATEMENT OF JUSTIFICATION  
APPLICATION FOR A TEXT AMENDMENT AMENDING THE CURRENT AIRPORT HAZARD DISTRICT  
OVERLAY AND CREATING AN AH-2 SEGMENT TO THE AIRPORT HAZARD OVERLAY DISTRICT OF  
CHAPEL HILL LAND USE MANAGEMENT ORDINANCE 3.6.1  
(PROPOSED SITE FOR THE CHAPEL HILL RETIREMENT RESIDENCE)**

## **Introduction**

This is a request for a text amendment to the current Land Use Management Ordinance in the Town of Chapel Hill amending standards and creating a second segment of the Airport Hazard Overlay District 3.6.1. To allow development options for the 6.24 acres site located at the Northeast corner of North Estes and Somerset Drive.

## **Background:**

The current Airport Hazard Overlay District 3.6.1 affects the proposed site due to its proximity to Horace Williams Airport west of the site. This is a small local airport with very limited air traffic activity. There is pending development on this site for a 3 Story Independent Senior Housing / Congregate Care Facility. We are requesting the creation of a second segment (AH-2) of the Airport Hazard Overlay District 3.6.1 to allow that the Minimum Gross Land Area and Minimum Floor Area Ratio to be based on the underlying zoning district and not the standards set by 3.6.1.

Understandably the primary area of concern is building height within Airport Hazard Overlay District 3.6.1. The FAA has stated in **Aeronautical Study No.2014-ASO-6407-OE, Issued 07/31/2014** that *"This aeronautical study revealed that the structure (a building 50 feet or less in height) does not exceed obstruction standards and would not be a hazard to air navigation"* following specific FAA conditions.

## **Goals and Objectives:**

By creating a second segment (AH-2) of the Airport Hazard Overlay District 3.6.1 it can provide for gross land and floor area ratios as well as building heights appropriate to the underlying district that are not in violation of the findings in Aeronautical Study No.2014-ASO-6407-OE. The creation of this second segment to 3.6.1 will allow for the development of a 3 Story Independent Senior Housing / Congregate Care Facility on the subject site.

The creation of this AH-2 segment could provide for additional opportunities for future development within Airport Hazard Overlay District 3.6.1 as zoning and development conditions would allow. This new residential use definition would complete and complement other senior and similar uses within the Land Use Management Ordinance for the Town of Chapel Hill.

## **Justification:**

Amending the Land Use Management Ordinance to create a second segment, AH-2, of the Airport Hazard Overlay District 3.6.1., will allow for increased development options for the 6.24 acres site located at the Northeast corner of North Estes and Somerset Drive. The current intent of the developer (Hawthorn Development / Retirement) who currently has this site under contract to develop a 3 Story Independent Senior Housing / Congregate Care Facility.



## **ARTICLE 4.4 ZONING AMENDMENTS**

The Article 4.4 of the Land Use Management Ordinance defining zoning may be amended only by the Chapel Hill Town Council for several defined purposes. The Chapter may be amended a) to correct a manifest error in the Chapter, or b) because of changed or changing conditions in the area or jurisdiction generally, or c) to achieve the purposes of the comprehensive plan.

The following information is provided in support of findings b and c above.

### **b) Changed or changing conditions in the area or jurisdiction generally:**

Looking at growth within the urban surface boundary and from the LUMO the 2008 projection of a 50 percent population growth by 2028 is well under way this projection covered only the Town of Chapel Hill did not include areas outside of the Town of Chapel Hill.

The useful life of the Horace Williams Airport is soon to end as the UNC at Chapel Hill Campus continues to expand into that location.

Residential senior housing demand at all levels will continue to increase and higher density housing options will make advances in meeting the growing demands for Senior Housing for the Greater Chapel Hill area.

The development of an Independent Senior Housing / Congregate Care Facility on this site will allow for the multiplication of benefits without the demand for massive new infrastructure, as well as saving energy, materials and tax dollars. Smart sustainable growth can also contribute to generating new revenue through and increased tax base. By fostering senior housing development in Town of Chapel Hill, promotes and provides Chapel Hill seniors with more options to “age in place” and remain as an asset to their local community.

### **c) To achieve the purposes of the Comprehensive Plan:**

The Chapel Hill Comprehensive Plans 2000 & 2020 included many themes, goals and strategies and this proposed addition of a high density residential conditional zoning district to the Chapel Hill zoning ordinance supports and will assist in achieving many of the purposes set out in the Comprehensive Plans. In specific the following themes relate directly:

#### **CHAPEL HILL 2020 COMPREHENSIVE PLAN**

The Chapel Hill 2020 Comprehensive Plan articulated in Chapter 3: Themes and Goals, values that are important to the community. The Chapel Hill Retirement Residence will meet or exceed these goals as well as those expressed in the previous 2000 Comprehensive Plan all as described below.

#### **A Place for everyone:**

A range of housing options for current and future residents (PFE.3)

Creating the AH-2 segment allow for adding another location for Independent Senior Housing / Congregate Care Facility in Chapel Hill Land and broadens opportunities for senior residential development.

**Community Prosperity and engagement:** Promote a safe, vibrant, and connected (physical and person) community (CPE.3)

Development of a Independent Senior Housing / Congregate Care Facility within the existing community as an adjacent or “in fill” sites when properly designed, can provide opportunities for community space, connectivity, and other amenities to “Promote a safe, vibrant, and connected (physical and person) community”.

**Getting Around:**

A connected community that links neighborhoods, businesses, and schools through the provision of greenways, sidewalks, bike facilities, and public transportation (GA.2); Connect to a comprehensive regional transportation system (GA.3); a transportation system that accommodates transportation needs and demands while mitigating congestion and promoting air quality, sustainability, and energy conservation (GA.6)

This location provides easy access to the Chapel Hill Transit System attracting senior residents who are most likely to utilize the transit system. Providing the obvious benefits reduced tip count, fuel and emissions savings.

This site promises possible access to or near existing future portions of the Chapel Hill Bicycle / Pedestrian Trail Network can add to the transposition options as well as adding to local recreational opportunities for the site.

**Nurturing Our Community:**

Maintain and improve air quality and water quality, and manage stormwater to heal local waterways and conserve biological ecosystems within the town boundaries and the Extra Territorial Jurisdiction (NOC.2); Support the Parks and Recreation Master Plan and the Greenways Master Plan to provide recreation opportunities and ensure safe pedestrian and bicycle connections (NOC.4); Protect neighborhoods from the impact of development such as stormwater runoff, light and noise Pollution, and traffic (NOC.8)

Current Stormwater management standards will apply to this residential senior housing development and within the proposed RHD1-C Ordinance the open spaces and impervious areas addressed. Additional consideration could be reviewed through the land use and site approval processes.

**CHAPEL HILL 2000 COMPREHENSIVE PLAN**

This Chapel Hill Retirement Residence site is also consistent with principals of the Chapel Hill 2000 Comprehensive Plan. These provisions are described in the following text.

**Maintain the Urban Services/Rural Buffer Boundary:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence at this location, within the existing Town Urban Services/Rural Boundaries, providing services residents with convenient access to essential service via alternative modes (public transit and pedestrian options) of transportation without the need for additional services or infrastructure

**Conserve and protect existing neighborhoods:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence will allow for development of an existing undeveloped parcel designed to integrate into the surrounding community while providing a location for Chapel Hill senior to age in place and remain a part of their local community / neighborhood.



**Create and preserve affordable housing opportunities:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence provides another senior housing option for the Town of Chapel Hill. Because of the services and amenities provide above and beyond providing of a residential unit, the Chapel Hill Retirement Residence “suites’ with the related services do not qualify for inclusion as affordable housing.

**Cooperatively plan with the University of North Carolina at Chapel Hill:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence should have no direct impact on the UNC at Chapel Hill campus.

**Work toward a balanced transportation system:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence will provide a housing use with fewer daily trips and peak hour trips than other residential uses. Reducing the traffic impact, as well as providing a segment of the local populations that support and utilize the Chapel Hill Transit System.

**Complete the bikeway/greenway/sidewalk systems:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence at this location will aide in improving pedestrian sidewalk connectivity on North Estes Drive and Somerset Drive. Additionally there may be possible future opportunities for connecting with pedestrian pathways (Chapel Hill Bicycle / Pedestrian Trail Network and / or the Chapel Hill Greenway Trails System).

**Provide quality community facilities and services:**

By creating the AH-2 allowing development of the Chapel Hill Retirement Residence provides another facet for smart development while allowing Chapel Hill seniors to age in place. While additionally providing the natural benefit of additional tax base dollars to support community services, transportation and infrastructure

**ATTACHMENT 4**

**Emails with Questions from Residents**

**From:** [Debra Gold](#)  
**To:** [Gene Poveromo](#); [Eric Feld](#); [nj397bench@gmail.com](#)  
**Cc:** [Avram Gold](#); [msJuliemclintock](#); [Marsha Horowitz](#); [Sandy Turbeville](#); [M dB](#); [Diane Bloom](#); [Vera Kornylak](#); [bruce\\_runberg@unc.edu](#); [mkelley@chccs.k12.nc.us](#); [adavidson@chccs.k12.nc.us](#)  
**Subject:** Horace Williams Airport Hazard Overlay Zone / Safety Considerations and Proposed Alterations  
**Date:** Tuesday, August 11, 2015 11:16:12 AM  
**Attachments:** [HWAquestionsplanningstaffboard.docx](#)

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Dear Planning Commission:

You are considering whether to amend or lift the Airport Hazard Overlay Zone. We would like to ask you to consider some important questions in advance of your deliberations. A list of questions is attached to this letter.

When the Carolina Development Agreement was signed in 2009, most people believed that Horace Williams Airport would be closed. UNC and the Town had approved a compact new campus situated at the top of the airport runway and the new campus development would soon be underway. It was thought to be just a matter of time until the Horace Williams Airport would be closed and Carolina North would be built. Nearby residents and others no longer considered the Airport Hazard Overlay Zone as relevant.

Six years later, the Carolina North campus is on hold indefinitely and expectations for the airport have changed so that there are no apparent plans to close or otherwise legally limit use of the airport. At this point, there is a reasonable expectation that the Horace Williams Airport could stay open for years into the future. Although University-owned, this airport is an open, public, general aviation airport. Anyone can fly in and take off from it and the rules of operation have not been reviewed since AHEC operations were transferred to RDU and the privately-owned flying club was moved to Siler City. Currently there is public air traffic in and out of the airport on a daily basis, including low-flying planes and helicopters. There is nothing to prevent a significant increase in airport traffic in the near future.

The YMCA, one church, five schools, a day care center and many neighborhoods surround the landing strip of Horace Williams Airport. Estes Hills Elementary and Phillips Middle schools with a total of 1100 students are located in a direct line with the runway. Notably, Phillips was built after a UNC Chancellor assured the School Board that the airport would be closed. Over the years, the School Board has called for the airport to be shut down. In addition, a UNC low-level radiation dump and hazardous chemical storage facility are located close to the runway. These additional considerations underscore the importance of continuing the Airport Hazard Overlay Zone.

A review of available documents show that the Airport Hazard Overlay Zone was put in place by the town in 1983. It may have come about as a result of an agreement reached between the Town Manager, Town Council and now-deceased landowner/developer J.P. Goforth, as he received permits for several new developments at that time very close to the Horace Williams run way. In light of the historic rationale for instituting the zone, and the current status of the airport, there is no support for amending, lifting or changing the overlay zone until the airport is closed. It is an area where an aircraft in trouble could land without endangering people on the ground.

Citizens for Airport Planning, founded in 1968, has scanned all the airport documents into a large, single file, "Horace Williams Airport Documents." We hope you will find these



documents useful for gaining a full understanding of the varied history of Horace Williams Airport. As the historic documents attest, Chancellors, Mayors, Town Councils, and Commissioners have weighed in with various solutions to the increasingly challenging situation of a town growing around an airport. This file is available at the Dropbox link below:

[https://www.dropbox.com/sh/6guwt6fcidteq17/AABdSsHC1HZ\\_uEccVEkF3X\\_ya?dl=0](https://www.dropbox.com/sh/6guwt6fcidteq17/AABdSsHC1HZ_uEccVEkF3X_ya?dl=0)

In addition, we are supplying a history of the accidents and fatalities that have occurred at or near the airport (same Dropbox link). To date, crash fatalities have been aircraft passengers; there have been no fatalities or injuries to people on the ground. However, the crash of a Horace Williams-based executive jet in a residential area in Gaithersburg, MD, in December 2014 (NTSB ID: DCA15MA029) killed three people in an apartment. The flight originated from Horace Williams Airport.

Pilot error and weather conditions are very often contributing factors in accidents on take-off and landing, and are particularly relevant in the case of general aviation operations such as Horace Williams, by far the most accident prone category of aviation. The Airport Hazard Overlay Zone also serves as an area where aircraft in trouble could be intentionally directed by pilots to avoid buildings and population.

Before the Planning Commission considers any change to the Horace Williams Overlay Zone, we strongly recommend that you answer the questions in the attached document: A List of Questions to Consider Before Altering or Lifting the Horace Williams Airport Hazard Overlay Zone. We ask these questions, not to impede proposed development, but to ensure that such development can occur safely and in accordance with applicable requirements.

Thank you.

Debra and Avram Gold, Huntington-Somerset Neighborhood

Julie McClintock, Coker Hills West

Sam Horowitz, Huntington-Somerset Neighborhood

Sandy Turbeville, Huntington-Somerset Neighborhood

Glen Elder, Huntington-Somerset Neighborhood

Vera Kornylak, Huntington-Somerset Neighborhood

Diane Bloom, Old Forest Creek

Maria de Bruyn, Elkin Hills

Attachment 1: A List of Questions to Consider Before Altering or Lifting the Horace Williams Airport Hazard Overlay Zone.

1) Given the history of crashes on or near Horace Williams Airport (HWA) over the past 40 years, how will lifting/altering the current hazard overlay district, while the airport remains open, affect the surrounding neighborhoods, including schools, churches, high-density residential, a community center, and a hazardous (radioactive materials) and chemical storage site?

2) Most of the plane crashes in Chapel Hill have occurred in or very near HWA and the site of a hazardous materials and chemical storage site that sits adjacent to HWA. In addition, many of the aircraft taking off and landing at Horace Williams Airport carry massive amounts of fuel. For example, a fully loaded King Air 350i carries 539 gallons of fuel, a fully loaded Citation X+ carries over 1900 gallons of fuel. Does the Town have in place an adequate emergency notification and evacuation plan should there be a crash that involves hazardous, chemical, and/or radioactive materials? Does the Town have in place adequate emergency resources to react to a disaster that combines explosive fuels and toxic materials?

3) If such a plan is in place, does it include efficient evacuation of school children at Estes Elementary and Phillips Middle schools, the elderly who live in adjacent neighborhoods and use facilities such as the YMCA, and the very dense student housing around the airport?

4) The airport hazard district was put in place by the Town of Chapel Hill to give residents in surrounding neighborhoods some protection/reduction of on-the-ground fatalities due to possible plane crashes by providing a space for planes to land. The Town's plan to close HWA to make way for Carolina North has come to a halt for the foreseeable future. Altering or lifting the hazard overlay district makes it possible for immediate redevelopment of the land that comprises the district, thus putting residents, school children, elderly, and people who work in the community at jeopardy for years into the future until the airport is closed. Why have the people of the town suddenly become less important than they were when the hazard district was put in place?

5) What is the reason for lifting/altering the hazard overlay district at this time? Whom does it benefit? Why is it necessary or needed?

6) As long as HWA remains open, is there the possibility that air traffic in and out of the airport will increase? What is the logic behind altering or lifting the airport hazard district when airport traffic may increase? (It definitely increases during football/basketball season and the academic year in general.)

7) Residents protected by the hazard district and living near the airport have

seen an increase in helicopter traffic over the past month alone. Helicopters are far more likely to crash than planes. With this increase in copter traffic, why would the Town consider lifting or altering the hazard district?

8) If the airport hazard zone is lifted or altered what is the liability of the Town should a crash occur that involves injuries or fatalities on the ground?

9) What is the liability of the University?

10) What are the FAA building height regulations for runway flight path airspace?

11) What does the FAA recommend in terms of runway safety zones and appropriate land use planning in areas surrounding and adjacent to airport runways?

12) The Planning Commission and the FAA should be equally concerned about the safety of those on the ground, as well as the airspace needed for safe landings and take offs. Most aircraft accidents happen upon taking off and landing. Why would the Council want to allow additional dense residential/commercial development within the flight path of a general aviation airport while that airport is still operating?

**From:** [nancy@nancyoates.org](mailto:nancy@nancyoates.org)  
**To:** [Eric Feld](#); [Gene Poveromo](#)  
**Subject:** Questions on Airport Hazard Zone  
**Date:** Friday, July 24, 2015 9:54:54 PM

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Eric and Gene --

Thanks for holding the session on the Airport Hazard Zone. Two pieces of information it seems Town Council needs to know before making a decision on whether to lift the hazard zone are:

-- What are the FAA height regulations and other restrictions?

-- What are UNC's plans for the airport? If UNC won't give a definitive closing date, ask for UNC's plans for 5 years out. In an interview earlier this year, Chancellor Carol Folt said all plans for the Horace Williams tract are on indefinite hold. Ask whether that has changed and how that stance affects the airport.

Thanks,  
Nancy

**From:** [jonahay](#)  
**To:** [Gene Poveromo](#); [Eric Feld](#)  
**Subject:** Questions and suggestions for airport hazard zone study  
**Date:** Thursday, July 23, 2015 9:01:53 PM  
**Attachments:** [120112asn-airport-noise-compatible-land-use.pdf](#)  
[airportlandusecompatabilitymanual6.pdf](#)  
[FAA Guidebook for managing small airports.pdf](#)  
[FAA land use and airports.pdf](#)  
[PRC-Airport-Noise-Abatement FAQs\\_03-27-2014.pdf](#)  
[proj6-landmgt-aptcontrol.pdf](#)

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Thank you for the information at the public information session.

Could you please address these questions in your study that will be submitted to the Planning Commission:

- The proposed amendment leaves the maximum building height as it is now but decreases the land area regulations. Please explain how the original land area regulations serve to protect/decrease potential harm to people and property from the airport and how that would change with the proposed amendments. If and when you propose other options to the Council, also explain what safety precautions there would be with each option and which option offers the most potential protection.
- Please find out and report how many planes and helicopters approach the airport from other directions besides that in the airport hazard zone, e.g., from the south over the Elkin Hills, Pinebrook and Colonial Heights neighborhoods. Are there any safety regulations in place for residences in those neighborhoods?
- Please describe how other communities with small local airports amid residential neighborhoods protect people and property from the effects of the airport and possible accidents.

Attached and below are some reports that you can consider as background material for your report:

[http://www.salon.com/2013/09/08/living\\_near\\_an\\_airport\\_could\\_be\\_a\\_toxic\\_decision\\_partner/](http://www.salon.com/2013/09/08/living_near_an_airport_could_be_a_toxic_decision_partner/)

Maria de Bruyn

**Questions Received at July 23, 2015 Airport Hazard District Public Information Meeting**

- 1) Has the landowner asked for a ruling on both pieces of land?
- 2) Is the Planning Commission aware of what it means that the FAA has determined no hazard to air navigation?
- 3) You have an application to lift the Airport Hazard Zone over those properties. Is there anything more than the property owner's lots being considered?
- 4) What is the FAA height restriction?
- 5) What is UNC saying about if/when they will close the airport?
- 6) How many flights go in and out of Horace Williams Airport now?
- 7) Can you tell me how the proposed amendment in terms of land area would impact safety?
- 8) How would changing the land area protect safety?
- 9) Is there a written rationale for invoking the airport hazard zone in the first place?
- 10) Why did the Town establish an Airport Hazard Zone in the past?
- 11) Does the Airport Hazard Zone originate with the Town of Chapel Hill, from the FAA, or both?
- 12) Have any of the aircraft accidents since 1981 damaged property?
- 13) By eliminating the Airport Hazard Zone, could the applicant receive approval without a Special Use Permit?
- 14) What has the Town heard from the FAA regarding height compliance?
- 15) What are the real safety issues? What safety are we achieving by restricting the property with an Airport Hazard Zone? Could we achieve the same degree of safety with another policy in place?
- 16) What is the Town's liability if there is no Airport Hazard Zone?