

Airport Zoning Regulations Land Development Code Amendment

Summary

Owner N/A Applicant City of Orlando Project Planner Paul S. Lewis, FAICP Chief Planning Manager	Description of the Request: Amend Chapters 58, 65, and 66 of the Land Development Code to revise the City's regulations related to tall structure permits, including the permit review and appeals process, as well as the regulation of sanitary landfills. Consistent with Chapter 333, Florida Statutes, the proposed revisions will require the City to assume greater responsibility in regards to the issuance of tall structure permits, while retaining oversight by the Federal Aviation Administration (FAA) and	Florida Department of Transportation (FDOT). Staff's Recommendation: Approval of the request. Public Comment: Staff posted this item on the city's website, and placed a classified ad in the Orlando Sentinel. No public comments have been received as of the date of the Staff Report.
Updated: April 7, 2017		

Analysis

Overview

Chapter 333—Airport Zoning, Florida Statutes, was amended as part of the 2016 session of the Florida Legislature. The amended statute requires local governments with airports, or which are impacted by airports, to update their land development regulations to conform with the requirements of the revised Chapter 333 by July 1, 2017. Chapter 333 requires that the Land Development Code of each local government address four (4) subject areas: aircraft noise, educational facilities, sanitary landfills (bird attractants), and tall structure permits (only required for structures where federal obstruction standards are exceeded and if the proposed construction or alteration is within a 10-nautical mile radius of the airport reference point located at the approximate geometric center of all usable runways of a public-use airport or military airport).

Chapter 333, F.S., also states that, where multiple jurisdictions have land upon which an obstruction may be constructed or altered, such as Orlando and Orange County, those jurisdictions have two implementation options.

- Option 1 would consist of an interlocal agreement where each jurisdiction would commit to adopting, administering and enforcing a consistent set of airport protection regulations. With this option, the two jurisdictions can utilize their existing boards to review and approve regulations, and review individual projects for consistency with those regulations. For instance, the City's Municipal Planning Board and the County's Planning & Zoning Commission could be the boards that review airport zoning regulations and development projects that could be impacted by airport-related heights restrictions.
- Option 2 would consist of an ordinance, regulation, or resolution, creating a joint airport protection zoning board that would adopt, administer, and enforce the regulations. Back in the late 1970s, when Chapter 333 was originally adopted, Orlando and Orange County created a joint Airport Zoning Board and Airport Zoning Board of Adjustment, which was generally consistent with Option 2. Option 1 did not exist at that time. In reality, both the City and County found that the Airport Zoning Board and Airport Zoning Board of Adjustment were extremely difficult to staff and support in practice, particularly considering the fact that the need to meet on such issues is extremely sporadic.

The City and Orange County are currently working together to prepare an interlocal agreement consistent with Option 1.

As the City has previously adopted airport zoning regulations, this particular set of amendments can be considered relatively non-substantial. For the most part, the amendments are intended to ensure compliance with Florida Statutes, focusing on changes to the procedural requirements for the issuance of tall structure permits and the associated appeals process.

Analysis

The revised Chapter 333, F.S., requires local governments to address four subject areas: aircraft noise, educational facilities, sanitary landfills (as bird attractants), and tall structure permits.

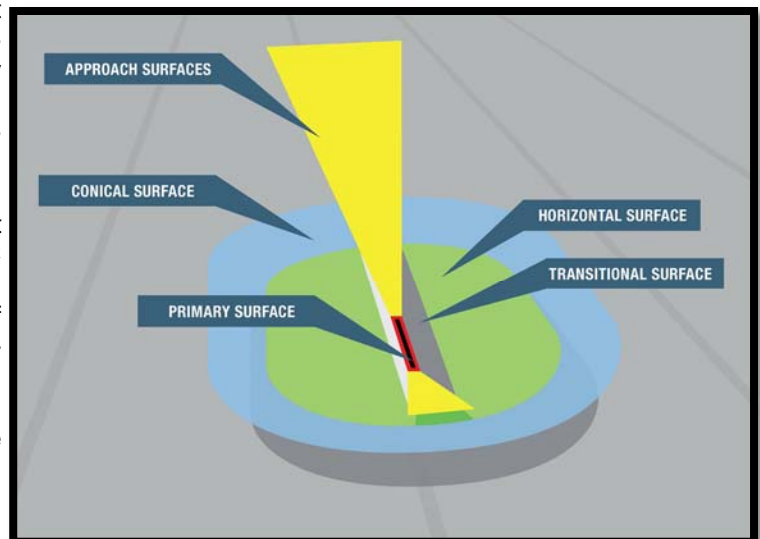
Aircraft Noise—Orlando's airports (Orlando International Airport and Orlando Executive Airport) were each the subject of a Federal Aviation Administration approved 14 C.F.R. Part 150 noise study in the late 1990s. The Part 150 Study established a set of noise contours and regulations that were then incorporated into the City of Orlando's and Orange County's land development regulations. In Orlando, an Aircraft Noise (AN) Overlay District was established and applied to the City's official Zoning Map. Five Aircraft Noise Control Zones were established. The aircraft noise regulations identify permitted and prohibited uses within each of the Aircraft Noise Control Zones, as well as sound level reduction (SLR) requirements for certain uses. The regulations also provide public notice requirements. City staff have reviewed the City's existing aircraft noise regulations and believe that they conform with the revised Chapter 333. Therefore, no changes are proposed to those regulations.

Educational Facilities—Section 333.03(2)(d), F.S., states, "Where an airport authority or other governing body operating a public use airport has not conducted a noise study, the prohibition of residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline." Because the City has previously adopted regulations in conformance with an adopted CF.R. Part 150 Study, the blanket prohibition on residential construction and educational facilities within the geographic area described is not applicable. It should be noted that the City's regulations do prohibit or impose noise attenuation standards to educational facilities located in certain Aircraft Noise Control Zones. City staff have reviewed the City's existing regulations and believe that they conform with the revised Chapter 333. Therefore, no changes are required in regards to educational facilities.

Sanitary Landfills—Sections 333.03(2)(a) and (b), F.S., prohibit new landfills and the restriction of existing landfills within 10,000 feet from the nearest point of any runway uses or planned to be used by turbine aircraft; within 5,000 feet of the nearest point of any runway used by only non-turbine aircraft; and outside those parameters, but still within the lateral limits of the civil airport imaginary surfaces. The rationale for prohibiting landfills in these areas is to reduce the potential for bird strikes which can prove hazardous for aircraft—landfills are bird attractants. Where a landfill attracts or sustains hazardous bird movement which may impact runways, approach or departure patterns, the landfill operator must incorporate bird management techniques into their operational plans to minimize bird hazards to airborne aircraft. City staff previously mapped this geographic area back in 2008 and adopted this information as part of the Growth Management Plan (GMP) Official Future Land Use Map Series (Figure LU-2B.4—Airport Hazards—Proximity to Airports). While this information is in the City's GMP, in order to ensure full compliance with Chapter 333, staff is recommending that the map be included in the LDC along with language specifically prohibiting new landfills within the specified landfill buffer areas. The revised language will also provide language requiring the use of bird management techniques. Figure LU-2B.4, which depicts the landfill buffer areas, is included in this staff report on page 5.

Tall Structure Permits—Section 333.07, F.S., requires that local governments create a permitting process for airspace obstructions. An "obstruction" means any existing or proposed object, terrain, or structure construction or alteration that exceeds the federal obstruction standards and includes: (a) any object or natural growth or terrain; (b) permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus; or (c) alteration of any permanent or temporary existing structure by a change in the structure's height, including appurtenances, lateral dimensions, and equipment or materials used in the structure.

The tall structure permit concept represents the most significant change component of the required LDC amendments. Essentially, the State is requiring local governments to assume responsibility for the issuance of permits for tall structures that impact an airport's imaginary surfaces (primary, transitional, horizontal, conical, approach, etc.) in such a way as to cause an obstruction. The graphic to the right depicts, in conceptual form, the various surfaces associated with an airport runway.



The Greater Orlando Aviation Authority has created several maps that will be incorporated into the LDC in order to implement the tall structure permit process. These maps display the various airspace surfaces associated with the Orlando International Airport and Orlando Executive Airport, and can be found on pages 6, 7, and 8 of this staff report.

Section 333.07, F.S., also provides a list of considerations that the local government must include in their analysis of permits for any proposed obstruction, including such things as the safety of persons on the ground and in the air, the safe and efficient use of navigable airspace, the nature of the terrain and height of existing structures, the character of existing and planned flight operations, and other federal requirements. Chapter 333.07 also provides authorization to the local government to require the owner of any obstruction to install, operate, and maintain, marking and lighting in conformance with specific standards established by the Federal Aviation Administration.

Section 333.09, F.S., provides guidance regarding the local government review and appeals process. This section provides the authority for local governments to issue or deny permits; requires the local government to provide a copy of the applicant's complete application to FDOT, and the power to enforce the issuance or denial of the permit or other determination made by the administrative agency with respect to the airport zoning regulations. Finally, this section specifically states that, if a zoning board (such as the Municipal Planning Board) already exists, that board may implement the permitting and appeals process.

Section 333.11, F.S., provides for judicial review procedures. The remainder of the statute includes provisions related to the acquisition of air rights (Section 333.12), enforcement and remedies (Section 333.13), and transition provisions (Section 333.135).

The proposed LDC amendments associated with tall structure permits reinforce regulations already established by the Federal Aviation Administration in relation to airport hazards/obstructions. Applicants who are planning to develop or modify structures that fit the definition of an airspace obstruction, which exceed the height allowed by a specific imaginary surface, will still be required to obtain FAA approval. However, the State of Florida has determined that a local tall structure permit should also be required. It is duplicative, but it is State-required duplication. In practical terms, the City's staff reports will no longer have conditions which simply defer to future FAA approval. Instead, staff will be coordinating more closely with GOAA to analyze new projects to determine if a local tall structure permit is required or not; and if so, the permit review and approval process will be integrated into the overall MPB approval process.

Summary of Proposed LDC Amendments

In order to ensure compliance with the recently revised provisions of Chapter 333—Airport Zoning, Florida Statute, staff is recommending the following amendments to the Land Development Code:

Sanitary Landfills

1. Amend LDC Chapter 58 to include the prohibition of new sanitary landfills, and the expansion of existing landfills, within the geographic area defined on the proposed new LDC Figure—Airport Hazards—Proximity to Landfills Map. In addition, add language to the LDC requiring landfill operators to incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft, where appropriate.

Tall Structure Permits

1. Amend LDC Chapter 58 to include maps depicting Imaginary Airspace Surfaces for both the Orlando International Airport and Orlando Executive Airport, as well as a composite map for both airports. It is anticipated that Chapter 58 will also include narrative descriptions of each of the airspace surfaces for each runway at each airport, and that the narrative description will include obstruction height standards. The proposed amendments to Chapter 58 will also include standards related to screening, hazard marking, and lighting. And finally, this amendment will include standards regarding existing non-conforming uses.
2. Amend LDC Chapter 65 to delete existing language related to the Airport Zoning Board and Airport Zoning Board of Adjustment as well as the old/previous variance process, and include new procedures for the review and issuance of tall structure permits. The City's Municipal Planning Board will be appointed and serve as the Airport Zoning Commission as described in and permitted by Chapter 333, F.S. It is likely that a representative from GOAA will be added to the make up of the MPB as an ex-officio member similar to Orange County School Board staff. The proposed revisions to LDC Chapter 65 will also include an appeals process as well as a description of potential judicial review procedures as provided for in Section 333.11, F.S. And finally, the new language will include provisions that ensure that copies of permit applications are forwarded to FDOT.
3. Amend LDC Chapter 66 to include necessary airport protection-related definitions.

Findings

In review of the proposed LDC amendment, it is found that:

1. The proposed Land Development Code amendment is consistent with the State Comprehensive Plan (Chapter 187, Florida Statutes).
2. The proposed Land Development Code amendment is consistent with the East Central Florida Strategic Regional Policy Plan.
3. The proposed Land Development Code amendment is consistent with the provisions of Chapter 163, Part II, Florida Statutes.
4. The proposed Land Development Code amendment is consistent with the provisions of Chapter 333, Florida Statutes.
5. The proposed Land Development Code amendment is consistent with the objectives and policies of the City's adopted Growth Management Plan (GMP).

Recommendation

Staff recommends approval of the proposed amendments to the Orlando Land Development Code, subject to review for form and content by the City Attorney's Office.

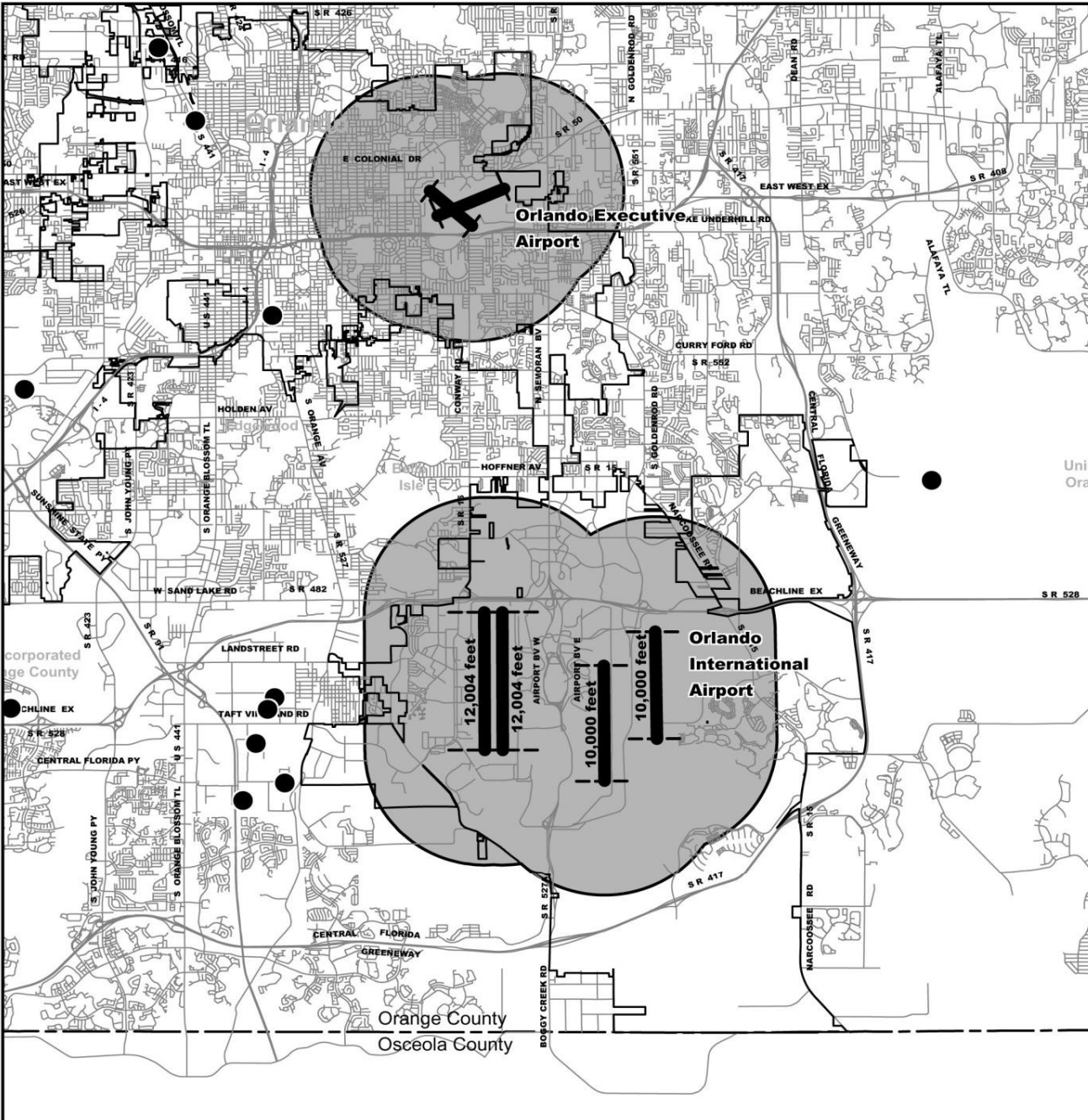
Next Steps

1. City, Orange County, and GOAA staff (and their attorneys) work on an Interlocal Agreement, and prepared their respective airport zoning regulation ordinances during April and May 2017.
2. City Council approves MPB Meeting Minutes on May 15, 2017.
3. City Council approves Interlocal Agreement between City of Orlando, Orange County, and GOAA on May 15, 2017 or June 5, 2017 (tentative).
4. City Council approves LDC Amendments on 1st Reading on June 5, 2017 (tentative).
5. City Council adopts LDC Amendments on 2nd Reading on June 19, 2017 (tentative).
6. City transmits package of Airport Zoning Regulations to FDOT in late June 2017 (tentative; statutory deadline is July 1, 2017).

Proposed Airport Hazards—Proximity to Landfills Map

**Figure
LU-2B.4**

Airport Hazards - Proximity to Landfills



LEGEND

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Miles



Active Landfill



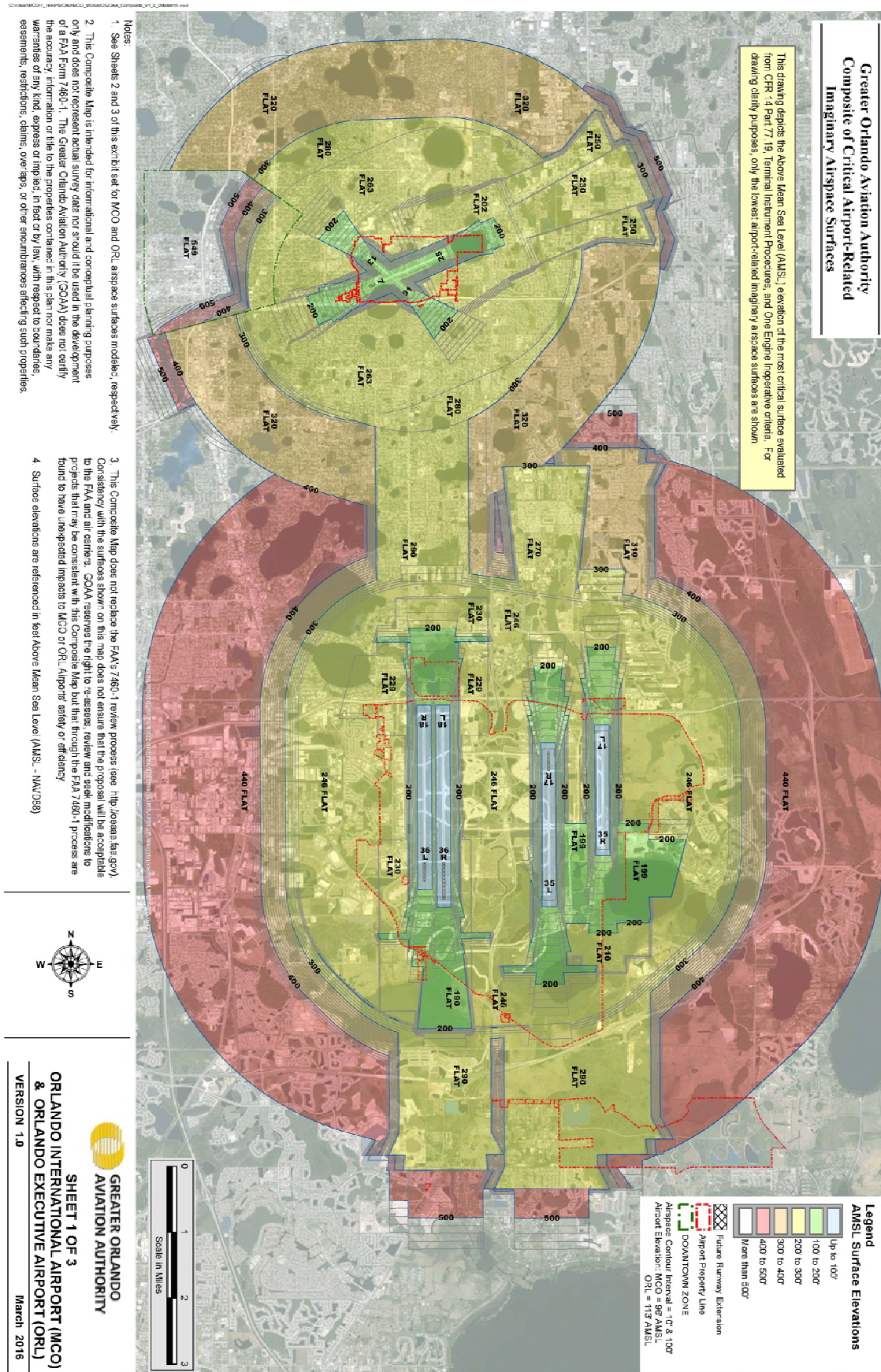
Landfill Buffer Area
(10,000 Foot buffer of any runway used or planned to be used by Turbojet or Turboprop aircraft; Landfills prohibited per chapter 333, F.S.)



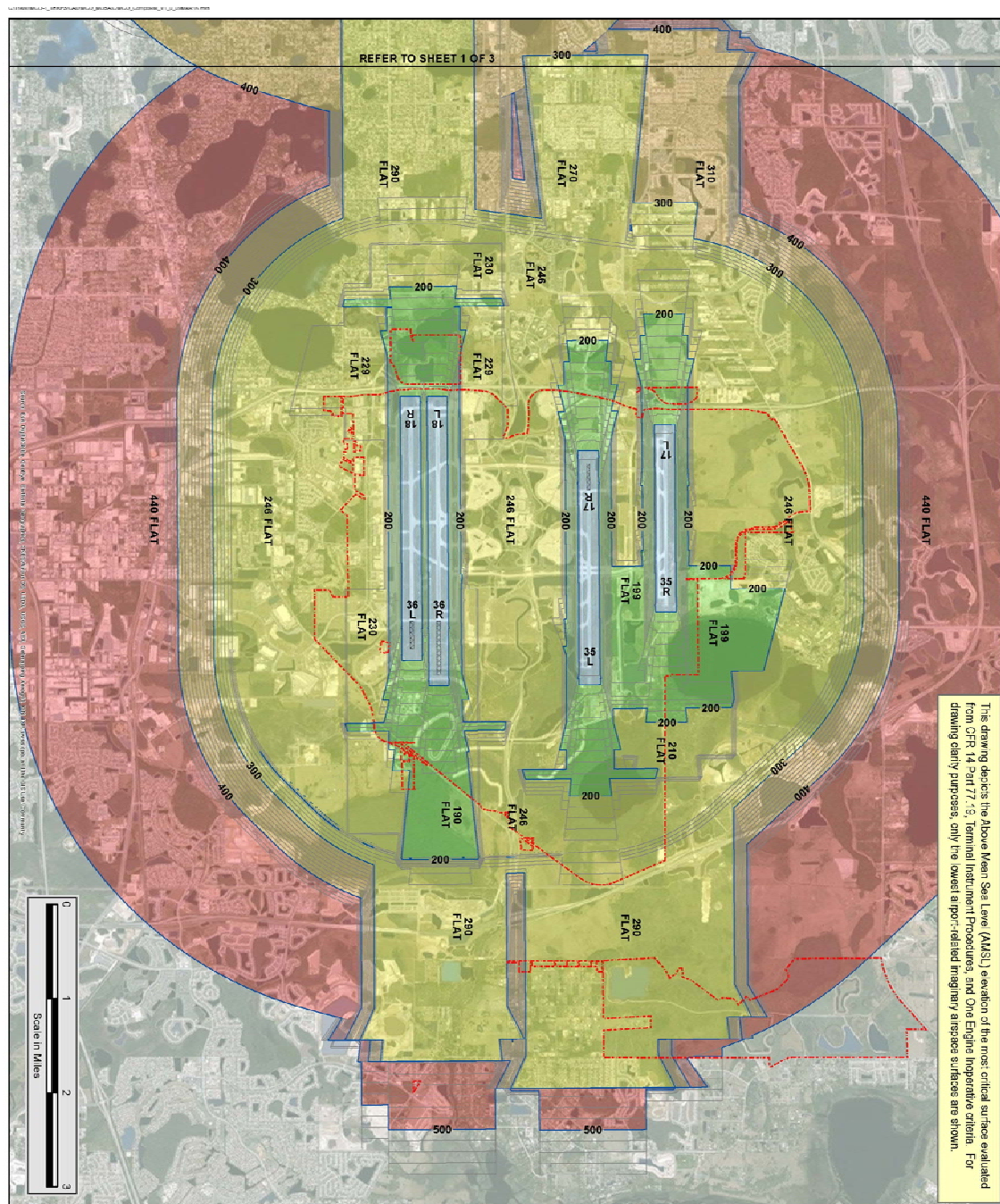
Orlando City Limits



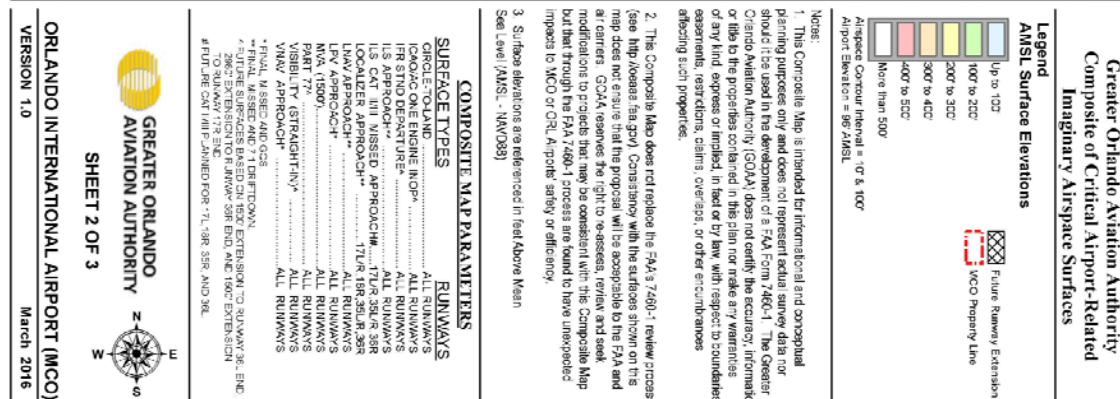
Proposed Imaginary Airspace Surfaces Map—Composite of OIA &



Proposed Imaginary Airspace Surfaces Map—OIA



This drawing depicts the Above Mean Sea Level (AMSL) elevation of the most critical surface evaluated from CFR 14 Part 77.9, Terminal Instrument Procedures, and One Engine Inoperative criteria. For drawing clarity purposes, only the lowest airport-related imaginary airspace surfaces are shown.



Proposed Imaginary Airspace Surfaces Map—OEA

