



June 4, 2014

AGENDA

The Agenda for the Meeting of the Joint Airport Zoning Board scheduled for 12:00p.m. (noon), Monday, June 9 2014, in the meeting room of the Greater Texoma Utility Authority, 5100 Airport Drive, Denison, TX, is as follows:

- I. Call To Order. * **
- II. Approval of the minutes of the April 30, 2014, Joint Airport Zoning Board Meeting.
- III. Workshop to review Airport Zoning Committee recommendations to the Airport Zoning Ordinance.
- IV. Public Comments.
- V. Adjourn.

If you plan to attend this Meeting, and you have a disability that requires special arrangements, please contact the Administration Office at 903-786-2904 within 24 hours of the Meeting and reasonable accommodations will be made to assist you.

* The Board may vote and/or act upon each of the items listed in this Agenda.

** The Board reserves the right to retire into Executive Session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act.

JOINT AIRPORT ZONING BOARD

ITEM NUMBER: Two
MEETING DATE: 06-09-14

ITEM TITLE: Approval of the minutes of the March 28, 2014, Joint Airport Zoning Board meeting

SUBMITTED BY: Terry Morrow, Administrative Asst.

DATE SUBMITTED: June 4, 2014

SUMMARY:

Minutes of the April 30, 2014, Joint Airport Zoning Board Meeting as transcribed from recorded tape.

ATTACHMENTS (LIST)

Minutes

ALTERNATIVES/RECOMMENDATIONS:

Approve minutes with changes if any.

**NORTH TEXAS REGIONAL AIRPORT
JOINT AIRPORT ZONING BOARD
APRIL 30, 2014**

MEMBERS' PRESENT:

Phil Roether, Chairman
Ken Brawley
Kevin Farley
Janet Gott
Randy Hensarling
Ryan Johnson
Todd Thompson

MEMBERS' ABSENT:

Lee Olmstead
Jason Sofey

OTHERS' PRESENT:

Mike Shahan, Airport Director
Bart Lawrence, Commission, Pct. #4
Scott Shadden, City of Sherman
Ryan Hindman, TxDOT

Michael Hutchins, Herald Democrat
Wm. B. (Ben) Munson, Esquire
Daniel Benson, TxDOT
Dave Fitz, Coffman Associates

I.

Call to Order.

Mr. Roether called the meeting to order at 12:04 p.m.

II.

Approval of the minutes of the March 30, 2014, Joint Airport Zoning Board Meeting.

Mr. Roether asked if the Board had the opportunity to review the minutes of the previous meeting. Ms. Gott made the motion to approve the minutes. Mr. Brawley seconded the motion. All members voted aye.

Mr. Roether stated that he was changing the order of the agenda and would discuss Item III after Item IV.

III.

Update from Chairman Roether on the Landowner meetings held April 12, 2014.

Mr. Roether advised the Board that he had met with landowners on April 12. He stated that letters were sent to every landowner within the proposed area and 89 landowners attended the meetings. He stated that as a result of these meetings he wanted to appoint a committee that would spend the next 30 days making a recommendation to the Board about Zone A and B and if they could be shrunk and still maintain the viability of the airport. He also stated that he wanted them to review Table A and make recommendations on it. Mr. Roether stated that Mr. Hensarling had stated that he would chair the committee and work with Mr. Sofey, Mr. Thompson and Mr. Brawley to make any recommendations that the committee saw fit at the next Board meeting. He stated that he would like to have a landowner representative from the north and south ends of Zone A on the committee.

Mr. Johnson stated that he had met with several landowners and he stated that he had gotten the same reaction as Mr. Roether, as Zone A does not appear to be an issue but that Zone B is an issue. Mr. Johnson stated that perhaps Zone A could be established at this time and Zone B at a later date.

IV.

Workshop to review Airport Zoning commission recommendations for the Airport Zoning Ordinance.

Mr. Roether stated that he wanted to go through the document and review changes that were made and not covered at the last meeting. He stated that TxDOT was running late but should be in attendance to answer some questions.

Mr. Roether began with Section 8.2. He stated that this would be discussed when the TxDOT representative got to the meeting.

Section 8.3 – Mr. Roether stated that this had to do with an appeal stay. Mr. Johnson asked if an appeal from each jurisdiction would go to the RMA. Mr. Shahan stated that if the property were in the county it would go to the RMA but if it were inside city limits, it would go to the appropriate city. Mr. Shahan went through the changes that were made in Exhibit B. Mr. Johnson asked Mr. Shadden about the appeal process in the City of Sherman. Mr. Shadden stated that all matter went before the P&Z and then to judicial review if the variance was denied. Mr. Shadden stated that this should be spelled out in the city's zoning ordinance procedure.

Section 8.4 – Mr. Roether stated this was a continuation of 8.3. Mr. Shahan stated that the mayor's of each city has requested that appeals be handled through their normal procedure. Mr. Hensarling asked if there was a mechanism in place to assure that each jurisdiction would enforce this in the same manner. Mr. Roether stated that should a city approve an appeal that was a blatant violation he would assume that the RMA could bring suit against the appeal although that is not specifically detailed in the document. Mr. Johnson agreed that there was a grey area in Section 9 as to whether that was allowed. After further review, Mr. Johnson stated that Section 10 deals with that issue. Mr. Roether asked Mr. Fitz if the verbiage in Section 8, 9, and 10 was standard verbiage. Mr. Fitz stated that it was. Mr. Thompson asked if other airports had adopted this verbiage. Mr. Fitz stated that he didn't know if it had been altered in final documents. After some discussion, Mr. Roether asked the Board if they felt that there needed to be any changes to the existing verbiage or should more research be done. Mr. Johnson stated that he had concerns with Section 10. Mr. Thompson stated that the appeal process should be clearly defined so that all interested parties understand the process. After further discussion, Mr. Roether asked Mr. Johnson to review Section 10 and perhaps work with the city attorney on the wording for the section. Mr. Thompson asked if other airport zoning documents that had been approved could be obtained. Mr. Fitz stated that he did not have them but TxDOT might have them. Mr. Roether stated that some of the adopted ordinances would be obtained and forwarded to Mr. Johnson for his review.

Section 11 Penalties – Mr. Shahan stated that this change was made by the City of Denison. Mr. Johnson felt that the level of misdemeanor needed to be spelled out. Mr. Thompson stated that it should follow state law.

Section 12 Conflicting Regulations – Mr. Shahan stated that this was highlighted by Mr. Benson. Mr. Shahan stated that under the existing aviation easements the airport has the right to remove any structure or growth that penetrates into the area protected by the height zoning ordinance. Mr. Benson stated that he may have highlighted this because this document works with land use compatibility but this is related to the airport height hazard. He said he saw no problem with having this in the document.

Section 13 Severability – Mr. Roether stated that he thought this was standard language.

Section 14. Effective Date - Mr. Roether stated that this says that the ordinance becomes effective the date it is approved.

Table A – Mr. Johnson stated that the shopping centers, meeting halls, multi-story office buildings, and labor intensive manufacturing plants had been added. He asked the reasoning behind adding those. Mr. Shahan stated that this was added to be consistent with the wording in the ordinance in Section 5 Compatibility Criteria Zone A. Mr. Roether stated that once this is placed in Table A it becomes restricted where it would not be if it is used as an example in Section 5. After further discussion, it was decided that this should be removed from Table A.

Mr. Roether asked Mr. Benson about the issue of the 45dB in Zone A and who would enforce it and what would be the problem with removing this. Mr. Benson stated that you would include some type of design standard requirement for new construction so that this goal could be met by the use of specific building materials. He stated that in absence of the design standards he was not sure how this would be regulated. Mr. Roether stated that cities usually have design standards but the county does not. He stated that this would require the County to adopt design standards. After further discussion it was decided that this would be taken under advisement.

Mr. Shahan stated that one item was the addition of the exclusion of flood control or detention ponds under waterways that create a bird hazard. He asked if small stock tanks should be included in the exclusion. Mr. Johnson suggested replacing waterways with wetlands. Mr. Fitz stated that an exception could be added for ponds for cattle. He stated that you could put a footnote or exception for cattle ponds. Commissioner Lawrence advised Mr. Roether that there is a TxDOT designed, engineered and built wetlands in Zone B on the west side of SH 289. He stated that it was built as a mitigation pond when they constructed the highway. Mr. Hensarling asked if “bird hazard” could be defined. Mr. Johnson stated that he would consider adding stock tanks as an exception and should be added to both Zone A and Zone B.

Mr. Shahan stated that another question was about the FAA airspace review. Mr. Shahan stated that originally it had to be done for any objects taller than 35 feet. Mr. Shahan stated that this had been changed to “required for all new construction” which would require a Form 7460 for any new construction as currently written. Mr. Benson asked if there was an accepted height limitation in the hazard zoning. Mr. Shahan stated that 150 feet above the runway plus your approaches. Mr. Benson asked if there was a clause stating that without exception nothing needed to be done as long as the structure is less than 50 feet or 35 feet, that it is accepted to be built that high, in the existing hazard zoning. Mr. Shahan stated that he was not sure. Mr. Benson stated that the Notice of Proposed Construction is required by the FAA regardless if it is in the ordinance or not, if someone is within a certain distance of the airport. Mr. Shahan stated that his thought was to include it here so it would be done. Mr. Johnson suggested being specific for each end of the runway. Mr. Shahan stated that he would add 19 feet or higher on the south end and would research the requirement for the north end.

Section 8.2 – Mr. Shahan stated that the question on this was about “A No Hazard Determination letter from the FAA must accompany the appeal before it can be considered by the responsible jurisdiction”. Mr. Benson stated that this is standard language that appears in TxDOT’s guidelines and other states guidelines. He stated that it was in there so that before the Board of Adjustments would hear a variance they would have some indication that the proponent seeking the variance has gone through the process of notifying the FAA of the proposed construction, the FAA is aware of the proposed construction and the FAA has weighed in on it. He stated that typically anything above 200 feet will be a hazard to air navigation automatically and anything under that typically gets a determination of no hazard. Mr. Benson suggested that this be required by someone who is seeking a variance so that it is known that they have gone to the FAA and it has been cleared. He stated that the Board of Adjustment will know this

has been done before issuing a variance. Mr. Johnson asked if the determination of no hazard is not received does this mean the appeal cannot go forward. Mr. Benson stated that the no hazard determination letter does not mean that construction cannot proceed. He stated that the FAA cannot tell someone that they cannot build. He stated that this allows them to partner with other agencies, particularly in the case of tall towers. He stated that the letter states that they cannot prevent construction. Mr. Shahan stated that should the construction occur, the airport and users of the airport are penalized due to changes in systems such as the ILS. Mr. Johnson asked the process for obtaining this determination. Mr. Benson stated that the FAA is required by written policy to review the request within 60 days. He stated that there is no cost and it is done electronically. Mr. Johnson stated that this needed to be revised in the wording to state that an appeal can move forward without that letter. Mr. Roether suggested changing it to read as "Determination of No Hazard" or changing it to read that the letter must be received before the appeal process can be completed. Mr. Roether stated that the Board wanted to drop the word "No" and is going to amend the end of the document to take away the appeal process starting before the letter is received to the appeal process cannot be completed until the letter is received. Ms. Gott stated that the "No" should be taken out and the remainder left alone. Mr. Brawley agreed with Ms. Gott. Mr. Benson stated that the letter is actually called a "Determination of No Hazard" but that there are several determinations that can be issued. Mr. Johnson stated that he would like to table this to get the exact wording of the letter that is sent out. Mr. Benson stated that he would look into this issue. Mr. Farley asked if there would ever be an appeal that the FAA would not be involved in. Mr. Johnson asked if there was a list of issues that this letter covered. Mr. Shahan stated that the determinations usually covered height issues. Mr. Benson stated that the only thing that they would weigh in on would be the efficiency of navigable air space. After further discussion, Mr. Roether stated that this would be reviewed and become more specific in regard to the hazard determination.

V.
Public Comments.

There were no comments from the audience.

VI.
Adjourn.

The meeting was adjourned at 1:39pm.

Phil Roether, Chairman

Terry Morrow, Administrative Asst.

JOINT AIRPORT ZONING BOARD

ITEM NUMBER: Four
MEETING DATE: 06-09-14

ITEM TITLE: Workshop to review Airport Zoning Committee recommendations to the Airport Zoning Ordinance.

SUBMITTED BY: Mike Shahan, Airport Director

DATE SUBMITTED: June 4, 2014

SUMMARY:

Enclosed is Revision 7 of the draft NTRA Zoning Ordinance in red-line format so you can see the changes. The remaining changes include are listed below:

1. Section 5, page 4. Zone A has been decreased in size and modified from one zone to two zones, now labeled as Zone A1 and Zone A2. The size of Zone B has been increased to include the property removed from Zones A1 and A2
2. Section 6, page 5 has been modified
3. Exhibit A, page 6 has been modified to show the new proposed Zone A1 & A2 and the redrawn Zone B as recommended by the Joint Zoning Committee.
4. Table A, page 7 has been updated with new requirements for all three zones.
5. Exhibit B, page 9 has been modified to show the recommended enforcement procedure as recommended by the JAZB at the last meeting.
6. Section 6, page 10 added paragraph 8.2 outlining height related appeal process
7. Section 9, page 11 change Section 241.041 to Section 241.042
8. Section 11.0, page 11 inserted that the penalty is a Class B misdemeanor and a fine of up to \$2,000.00 per offense.

Attachment E: Implementation Materials is included as an attachment for your review.

Attachments A through D, which are the zoning maps and legal descriptions for the various properties being covered by this draft zoning ordinance is not included in this agenda packet due to the size of the attachments. These attachments will need to be modified once the zones have been accepted by the JAZB. All attachments will be covered in greater detail at a later JAZB Workshop. Please refer to your previous draft zoning ordinance booklet to review the attachments.

ATTACHMENTS (LIST)

Draft NTRA Zoning Ordinance, revision 7 dated June 4, 2014

ALTERNATIVES/RECOMMENDATIONS:

North Texas *Grayson County, TX*

REGIONAL AIRPORT



**Draft NTRA Zoning Ordinance
Revision 7
June 4, 2014**



DRAFT FINAL AIRPORT ZONING ORDINANCE

DRAFT NORTH TEXAS REGIONAL AIRPORT LAND USE COMPATIBILITY ZONING ORDINANCE

1.0 PURPOSE

The North Texas Regional Airport (the “Airport”) is used in the interest of the public and fulfills an essential purpose for the communities of Denison, Pottsboro, Sherman, and Grayson County. This *Airport Land Use Compatibility Zoning Ordinance* (the “Ordinance”) for the Airport is intended to protect and promote the safety and welfare of Airport users and residents near the Airport, while promoting the continued operation of the Airport. Specifically, the Ordinance seeks to protect the public from the adverse effects of Airport noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities encroach upon or adversely affect the use of navigable airspace.

The Ordinance will ensure compatible development in the vicinity of the Airport by defining terms of use within created compatibility zones, creating the appropriate compatibility zones, and providing for enforcement. The Ordinance is adopted pursuant to the authority conferred by the *Airport Zoning Act*, Texas Local Government Code, Section 241. Municipal and County Zoning Authority around Airports.

2.0 DEFINITIONS

(1) **ACT** - means the *Airport Zoning Act*, Texas Local Government Code, Section 241.001

(2) **ADMINISTRATIVE AGENCY** – The Grayson County-Denison-Pottsboro-Sherman Joint Airport Zoning Board (the “Joint Airport Zoning Board”) or an administrative agency, commission, board, or person designated by the Joint Airport Zoning Board to administer and enforce airport compatible land use zoning regulations.

(3) **AIRPORT** - Means that area of land owned by Grayson County and located within Grayson County, Texas, currently referred to as the North Texas Regional Airport which is designed and set aside for the landing and taking off of aircraft and used or to be used in the interest of the public for such purpose. The term includes an area with installations relating to flights, including facilities, and bases of operation for tracking flights or acquiring data concerning flights.

(4) **Airport Director** – Means the Airport Director of the North Texas Regional Airport.

(5) **Airport Elevation** – The established elevation of the highest point on the runway, either existing or planned, at the airport measured in feet above mean sea level (MSL). The airport elevation of the North Texas Regional Airport is 749 feet above mean sea level (MSL).

(6) **AIRPORT HAZARD** - Means a structure or object of natural growth or use of land that obstructs the air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

(7) **AIRPORT HAZARD AREA** - Means an area of land or water on which an airport hazard could exist defined by the Act or Regulation.

(8) **AIRPORT ZONING REGULATION** - Means an airport hazard area defined or described by zoning regulation or an airport compatible land use zoning regulation adopted under this Ordinance.

(9) **AVIGATION EASEMENT** – Means an easement which shall include, but is not limited to, the right of aircraft to fly over the Land, together with its attendant noise, vibrations, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on the Airport.

(10) **CENTERLINE** - Means a line extending through the midpoint of each end of a runway and extending outward to the North and/or South end of Zone A.

(11) **COMPATIBLE LAND USE** - Means a use of land in the vicinity of the Airport within the Development Zone that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the Airport, including the taking off and landing of aircraft, as indicated on attached **Exhibit A**.

(12) **CONTROLLED COMPATIBLE LAND USE** – Means an area of located outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half statute miles from the centerline of an instrument or primary runway and lines located no farther than five statute miles from the each end of the paved surface of an instrument or primary runway. Further definition of controlled compatible land use is found in Section 3.0 and Exhibit A: Zoning Boundaries.

(13) **EXISTING LAND USE** - A land use which either physically exists or for which local government commitments along with substantial construction investment by the property owner make it not feasible for the land to be used for anything other than its proposed use. Local government commitment to a proposal can usually be considered firm once a vesting tentative map, development agreement, or other land use entitlement has been approved or all discretionary approvals have been made and exists before the date of these adopted regulations.

(14) **INSTRUMENT RUNWAY** - An existing or planned runway of at least 3,200 feet for which there is or is planned to be an instrument landing procedure published by the Federal Aviation Administration. Runway 17L – 35R is the instrument runway at the Airport.

(15) **JOINT AIRPORT ZONING BOARD** - Means a board created by Resolution or Order consisting of nine members, two members appointed by Grayson County, two members appointed by the City of Denison, two members appointed by the City of Pottsboro, and two members appointed by the City of Sherman (the "Board"). The eight appointed members shall elect by a majority vote the ninth member who shall serve as chairman of the Board in accordance with the *Airport Zoning Act*, Texas Local Government Code, Section 241.014 (c).

(16) **NONCONFORMING USE** - Any structure, object of natural growth, or use of land which exist before the date of these adopted regulations and is inconsistent with the provisions set forth in these policies. See Section 6: Nonconforming Uses, Regulations not Retroactive.

(17) **OBSTRUCTION** - Means a structure, growth, or other object, including a mobile object, that exceeds a limiting height established by federal regulations or by an Airport Zoning Regulation.

(18) **ORDINANCE COORDINATOR** - The ordinance coordinator shall mean the Airport Director.

(19) **PERSON** - Means an individual, firm, partnership, corporation, limited liability company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

(20) **POLITICAL SUBDIVISION** - Means a municipality or county as defined by the Act.

(21) **PRIMARY RUNWAY** - Means the paved runway, as shown in the official Airport Layout Plan (ALP), greater than 3,200 feet in length on which a majority of the approaches to and departures from the Airport occur. Currently, Runway 17L-35R is the primary runway at the Airport.

(22) **RUNWAY** - A defined area on an airport prepared for landing and take-off of aircraft along its length.

3.0 ADMINISTRATION OF ORDINANCE

3.1 RESPONSIBLE JURISDICTION. It shall be the duty of the Grayson County Planning Department to administer and enforce this Ordinance within the unincorporated portion of Grayson County. It shall be the duty of the City of Denison Planning Department to administer and enforce this Ordinance within the city limits of Denison. It shall be the duty of the City of Pottsboro Planning Department to administer and enforce this Ordinance within the city limits of Pottsboro. It shall be the duty of the City of Sherman Zoning Department to administer and enforce this Ordinance within the city limits of Sherman.

3.2 Ordinance Coordinator. To ensure consistency and efficiency in administration of this ordinance, the Joint Airport Zoning Board appoints the Airport Director or the appropriate governing body to coordinate administration of this ordinance. It is not intended by

this ordinance that the Airport Director be given any authority to make final determinations or enforce this ordinance.

3.3 ***Procedure.*** All applications, appeals, or other documents and inquiries required by this ordinance shall be filed with the Airport Director. The Airport Director shall assign such application, appeal or procedure to the responsible jurisdiction in accordance with Section 3.1. The Airport Director shall coordinate with the jurisdictions the processing and status of applications, appeals and any other procedures affecting the zoning at the Airport. Procedure for processing applications is provided in Section 7.0. Procedure for processing appeals is provided in Section 8.0. **Exhibit B** depicts the enforcement process.

4.0 CONTROLLED COMPATIBLE LAND USE AREA

The Controlled Compatible Land Use Area is defined by the boundaries of the Airport and in the vicinity of the Airport as indicated on attached **Exhibit A**.

5.0 COMPATIBILITY CRITERIA

The criteria for assessing whether a land use plan, ordinance, or development proposal is to be judged compatible with the Airport are set forth in the Compatibility Criteria matrix, **Table A**. These criteria are to be used in conjunction with the Controlled Compatibility Land Use Area map depicted on **Exhibit A**. For the purposes of reviewing proposed amendments to community land use plans and zoning ordinances, as well as in the review of individual development proposals, the Compatibility Criteria in the matrix will control.

There are ~~two~~three -Airport Hazard Areas defined for the Airport which include:

Zone A1, this zone encompasses areas overflown at low altitudes, typically 200 or less above Airport elevation. Residential uses are prohibited unless the dwelling unit per acre criteria is met in Table A: Compatibility Criteria Matrix. Nonresidential uses for activities which attract people (uses such as ~~shopping centers, restaurants,~~ theaters, meeting halls, multi-story office buildings, and labor-intensive manufacturing plants) are prohibited. In addition, children’s schools, day care centers, hospitals, nursing homes, and hazardous uses (e.g., aboveground bulk fuel storage and landfills) are prohibited. **Table A** provides a complete list of prohibited uses and conditions for Zone A1.

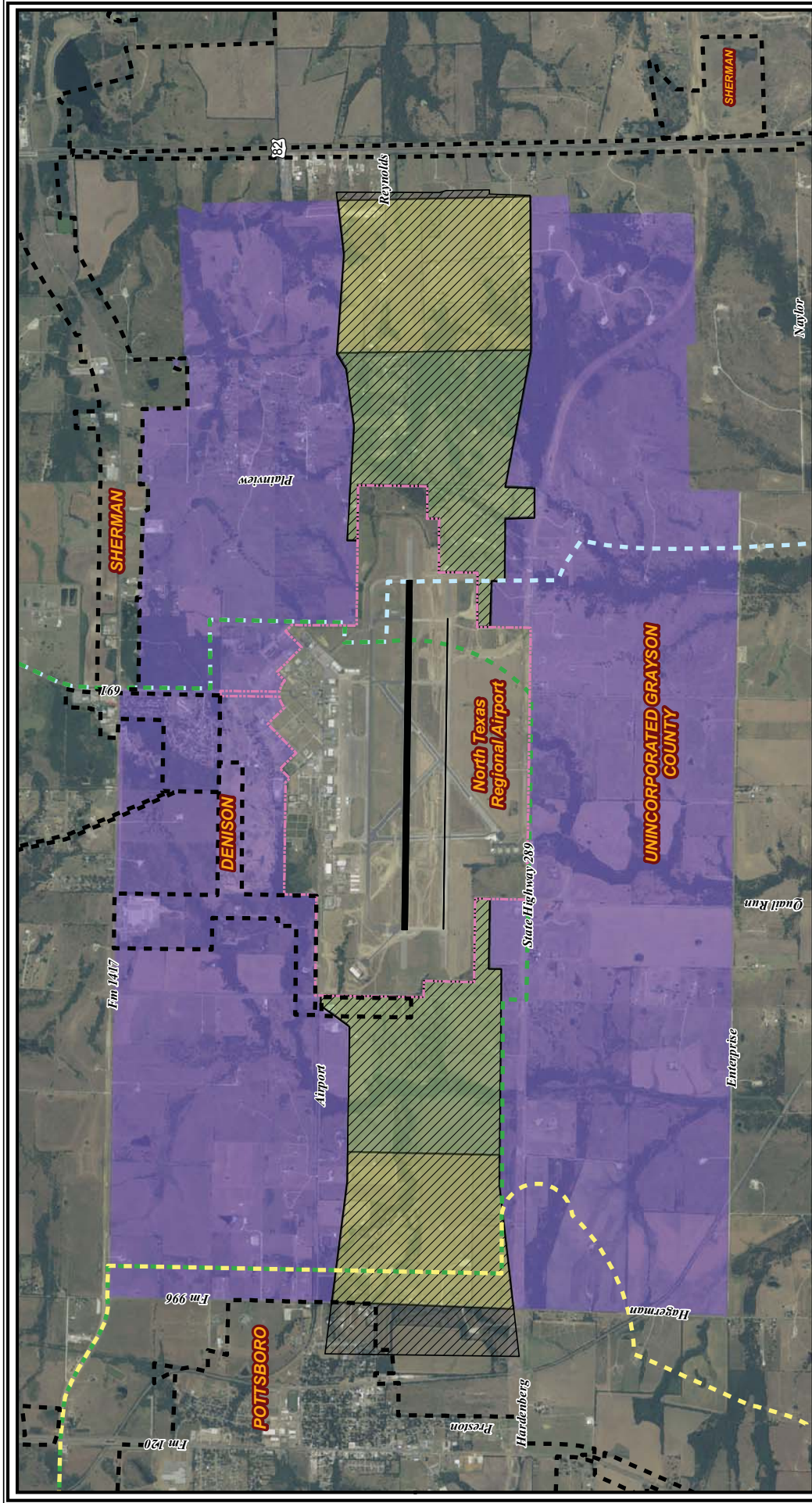
Zone A2, this zone encompasses areas overflown at low altitudes, typically 200 to 400 feet above Airport elevation. Residential uses are prohibited unless the dwelling unit per acre criteria is met in Table A: Compatibility Criteria Matrix. Nonresidential uses for activities which attract people (such as outdoor stadiums and similar uses with very high intensities are prohibited). In addition, airport hazards (physical [e.g., tall objects], visual, and electronic forms of interference with the safe-

ty of aircraft operations) are also prohibited. **Table A** provides a complete list of prohibited uses and conditions for Zone [A2](#).

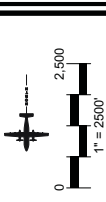
[Zone B](#), this zone includes all other portions of regular aircraft traffic patterns and pattern entry routes.

6.0 NONCONFORMING USES, REGULATIONS NOT RETROACTIVE

This Ordinance shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and whose completion is diligently pursued. For purposes of this Ordinance, permitted non-conforming structures shall include all phases or elements of a multi-phase structure, whether or not actual construction has commenced, which have received a completed determination by the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77.31 before the effective date of this Ordinance or amendments thereto under the Airport Zoning Act. ~~of no hazard by the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77 before the effective date of this Ordinance or amendments thereto under the *Airport Zoning Act*.~~



SOURCES:
 * Coffman Associates Analysis
 * Aerial photos from 2008 National Agricultural Imagery Program (USDA)



- Legend**
- City Limits
 - Airport Property
 - Existing Avigation Easement
 - Extraterritorial Jurisdiction**
 - DENISON
 - POTTSBORO
 - SHERMAN
 - Proposed Zones**
 - Zone A1
 - Zone B
 - Zone A2

TABLE A Compatibility Criteria Matrix					
Zone	Maximum Densities/Intensities/Required Open Land			Additional Criteria	
	Dwelling Units per Acre ¹	Maximum Non- residential Intensity ²	Req'd Open Land ³	Prohibited Uses ⁴	Other Development Conditions ⁵
Zone A1	1 d.u. per 5 acres	100 persons per acre	30%	<ul style="list-style-type: none"> Residential, except for very low residential Petroleum refining & storage⁸ Natural gas & petroleum pipelines⁹ Children's schools, day care centers, libraries Hospitals, nursing homes Places of worship Schools Theaters, auditoriums, & stadiums Dumps or landfills, other than those consisting entirely of earth & rock. Waterways that create a bird hazard, does not include flood control, detention ponds or stock tanks. Hazards to flight⁶ 	<ul style="list-style-type: none"> Avigation easement dedication Within reason, locate structures maximum distance from extended runway centerline FAA airspace review required for objects > 770' MSL elevation⁷
Zone A2	1 d.u. per 2.5 acres	250 persons per acre	No Limit	<ul style="list-style-type: none"> Theaters, auditoriums, & stadiums Dumps or landfills, other than those consisting entirely of earth & rock. Waterways that create a bird hazard, does not include flood control, detention ponds or stock tanks. Hazards to flight⁶ 	<ul style="list-style-type: none"> Avigation easement dedication FAA airspace review required for objects > 770' MSL elevation⁷
Zone B	No Limit	No Limit	No Limit	No Limit	<ul style="list-style-type: none"> Fair disclosure statement

Notes:

¹ Residential development must not contain more than the indicated number of dwelling units (excluding secondary units) per gross acre (d.u./ac). Clustering of units is encouraged. Gross acreage includes the property at issue plus a share of adjacent public or private roads and any adjacent, permanently dedicated, open lands.

² Usage intensity calculations shall include all people (e.g., employees, customers/visitors, etc.) who may be on the property at a single point in time, whether indoors or outside.

³ Open land requirements are to be applied with respect to an entire Zone A1. This is typically accomplished as part of a community general plan or a specific plan, but may also apply to large (10 acres or more) development projects.

⁴ The uses listed here are ones that are explicitly prohibited regardless of whether they meet the intensity criteria. In addition to these explicitly prohibited uses, other non-residential uses will not be permitted in the respective compatibility zones when they do not meet the usage intensity criteria.

⁵ As part of certain real estate transactions involving residential property within any compatibility zone (that is, anywhere within the Airport influence area); information regarding Airport proximity and the existence of aircraft overflights must be disclosed. Easement dedication and deed notice requirements indicated for specific compatibility zones apply only to new and redevelopment if approval is required.

⁶ Hazards to flight include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds to increase is prohibited.

⁷ This Mean Sea Level (MSL) height criterion is for general guidance. Objects below this 770' MSL height normally will not be airspace obstructions ~~unless situated at a ground elevation well above that of the Airport~~. Taller objects may be acceptable if determined not be obstructions.

⁸ Does not include storage tanks associated with well heads.

⁹ Natural gas & petroleum pipelines less than 36 inches below the surface.

7.0 PERMITS

7.1 Future Uses. No change shall be made in the use of land and no structure shall be erected or otherwise established in any zone hereby created unless a permit has been applied for and granted under this Ordinance-. Each application for a permit shall be filed with the Airport Director and indicate the purpose of the permit and include sufficient information to determine whether the resulting use or structure would conform to this Ordinance. The Airport Director shall assign the permit application and transmit all permit application documentation to the responsible jurisdiction in accordance with Section 3.1.

If the responsible jurisdiction determines that the requested permit is consistent with the provisions of this Ordinance, the permit shall be granted. Within Zone A, an Avigation Easement is required as a condition of the approval of the permit. No Permit that is inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 7.4.

7.2 Existing Uses. No permit shall be granted that would allow the expansion of an established nonconforming use or structure or creation of a new nonconforming use or structure.

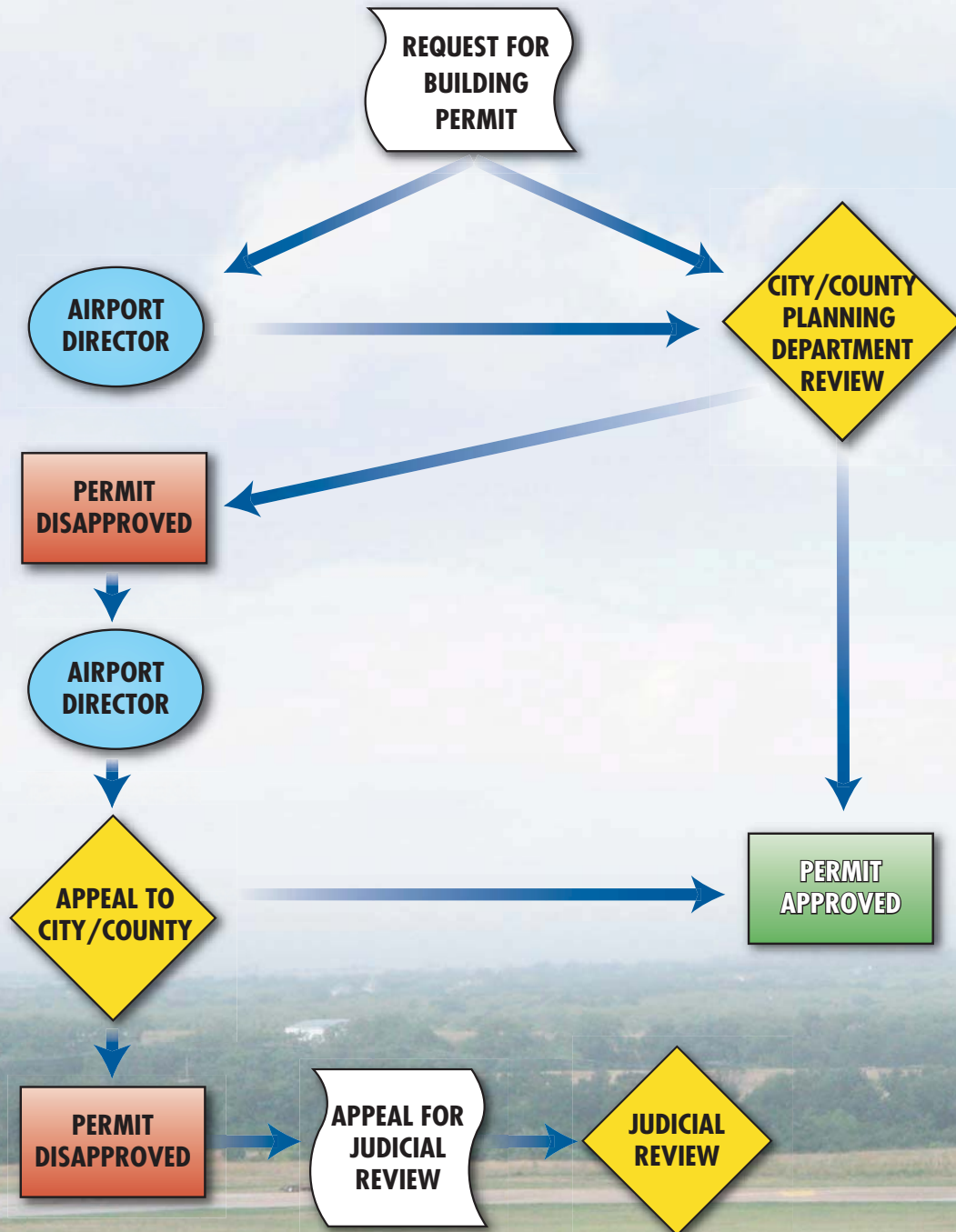
7.3 Nonconforming Use, Abandoned or Destroyed. Whenever the responsible jurisdiction, County or City determines that a nonconforming structure has been abandoned or more than -sixty (60) percent torn down, physically deteriorated, or decayed, no Permit shall be granted that would allow such structure or any nonconforming structure that is inconsistent with the provisions of this Ordinance.

7.4 Variances. Any person desiring to use his or her property in violation of the provisions of this Ordinance may apply for a variance. Applications for a variance shall be filed with the Airport Director. The Airport Director shall assign the variance application and transmit all variance application documentation to the responsible jurisdiction in accordance with Section 3.1. Each jurisdiction shall determine if the variance meets the requirement of the applicable state and/or federal law, local zoning ordinance and this ordinance. A variance may be allowed where it is found that a literal application or enforcement of this Ordinance would result in practical difficulty or unnecessary hardship and granting relief would result in substantial justice being done, would not be contrary to public interest and the relief would be in accordance with the spirit of this ordinance.

8.0 APPEALS

8.1 Any person aggrieved, or any taxpayer affected, by any decision of a responsible jurisdiction (Denison, Pottsboro, Sherman, or Grayson County acting by and through the Grayson County Regional Mobility Authority) made in administration or enforcement of this Ordinance, may appeal to the respective jurisdiction (Denison, Pottsboro, Sherman or Grayson County acting by and through the Grayson County

AIRPORT OVERLAY ZONING ENFORCEMENT PROCESS



Regional Mobility Authority), if that person or taxpayer is of the opinion that a decision of any jurisdiction is an improper application of this Ordinance.

- 8.2 All height related appeals must be filed with the Airport Director and taken within a reasonable time as provided by the rules of the responsible jurisdiction (Denison, Potttsboro, Sherman or the Grayson County Regional Mobility Authority), by filing a notice of appeal specifying the grounds for the appeal. -A completed aeronautical study determination from the Federal Aviation Administration under Title 14 of the Code of Federal Regulations, Part 77.5 must accompany the appeal before it can be considered by the responsible jurisdiction. The Airport Director shall assign such appeal and transmit the appeal documentation constituting the record upon which the action appealed was taken to the responsible jurisdiction in accordance with Section 3.1.
- 8.3 All appeals must be filed with the Airport Director and taken within a reasonable time as provided by the rules of the responsible jurisdiction (Denison, Potttsboro, Sherman or the Grayson County Regional Mobility Authority), by filing a notice of appeal specifying the grounds for the appeal. The Airport Director shall assign such appeal and transmit the appeal documentation constituting the record upon which the action appealed was taken to the responsible jurisdiction in accordance with Section 3.1.
- 8.4 An appeal shall stay all actions and proceedings by any party in furtherance of the decision appealed from, unless the responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) certifies in writing that by reason of the facts stated in such certification, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the responsible jurisdiction on due cause shown.
- 8.5 The responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.
- 8.6 The responsible jurisdiction (Denison, Potttsboro, Sherman or Grayson County acting by and through the Grayson County Regional Mobility Authority) may in conformity with the provisions of this Ordinance reverse or affirm, in whole or in part, or modify the order, requirement decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances.

9.0 JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the responsible jurisdiction (Denison, Pottsboro, or Sherman or the Grayson County Regional Mobility Authority), may appeal to a court of record, as provided by the *Airport Zoning Act*, Texas Local Government Code, ~~Section 241.041~~ Section 241.042.

10.0 ENFORCEMENT AND REMEDIES (Ryan is reworking this section)

Denison, Sherman, Pottsboro, or Grayson County acting by and through the Grayson County Regional Mobility Authority may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Ordinance or of any order or ruling made in connection with its administration or enforcement including, but not limited to, an action for injunctive relief as provided by the *Airport Zoning Act*, Texas Local Government Code, Section 241.044.

11.0 PENALTIES

Each violation of this Ordinance or of any regulation, order past the established date of the Ordinance, or ruling promulgated hereunder shall constitute a Class B misdemeanor and upon conviction shall be punishable by a fine of not more than \$2,000.00. Each day a violation continues to exist shall constitute a separate offense.

12.0 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations affecting the same land, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the Airport compatibility criteria shall govern or prevail as provided by the *Airport Zoning Act*, Texas Local Government Code, Section 241.902.

13.0 SEVERABILITY

If any of the provisions of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

14.0 EFFECTIVE DATE

Implementation of the provisions of this Ordinance is for the general welfare of the public and preservation of the Airport. This Ordinance shall be in full force and effect from and

after its passage by the Grayson County Joint Airport Zoning Board and publication and posting as required by law.

Adopted by the Grayson County Joint Airport Zoning Board this ___ Day of _____, 20__.

Attachment E

IMPLEMENTATION MATERIALS

The materials in this attachment are for use in implementing the North Texas Regional Airport Land Use Compatibility Zoning Ordinance and include the following:

- Sample Airport Disclosure Statement For New Development Around North Texas Regional Airport
- Sample Avigation Easement and Release for North Texas Regional Airport

**SAMPLE AIRPORT DISCLOSURE STATEMENT
FOR NEW DEVELOPMENT AROUND
NORTH TEXAS REGIONAL AIRPORT**

_____ 2013

For inclusion into covenants, conditions and restrictions (CC&Rs) or for disclosure notice:

Proximity to Airport. Each Owner, by accepting a deed to a Lot or Parcel, or by otherwise acquiring title to a Lot or Parcel, acknowledges (for such Owner and such Owner's heirs, successors and assigns) that: **(a)** the Lot or Parcel is in close proximity to the North Texas Regional Airport (the "Airport"), which is currently located generally between the Farm to Market Road 1417 on the east, Highway 289 to the west, Refuge Road to the north, and Plainview Road to the south; **(b)** as of the date hereof, the Airport is operated as a general aviation and cargo service airport and used generally for single engine and twin engine airplanes, corporate jets, helicopters, unscheduled cargo, and charter service by turbo prop and jet aircraft and military aircraft; **(c)** aircraft taking off from and landing at the Airport may fly over the Lot or Parcel and adjacent properties at altitudes which will vary with meteorological conditions, aircraft type, aircraft performance and pilot proficiency; **(d)** as of the date hereof, the majority of aircraft takeoffs and landings occur daily between 6:00 a.m. and 11 :00 p.m., but the Airport is open twenty-four (24) hours each day, so takeoffs and landings may occur at any hour of the day or night; **(e)** as of the date hereof, the number of takeoffs and landings at the Airport average approximately 200 each day, but that number will vary and may increase with time if the number of Airport operations increases; **(f)** flights over the Lot or Parcel or adjacent properties by aircraft taking off from or landing at the Airport may generate noise, the volume, pitch, amount and frequency of occurrence of which will vary depending on a number of factors, including without limitation the altitudes at which the aircraft fly, wind direction and other meteorological conditions and aircraft number and type, and may be affected by future changes in Airport activity; **(g)** such Owner (for such Owner and such Owner's heirs, successors and assigns) hereby accepts and assumes any and all risks, burdens and inconvenience caused by or associated with the Airport and its operations (including, without limitation, noise caused by or associated with aircraft flying over the Lot or Parcel and adjacent properties), and agrees not to assert or make a claim against the County of Grayson, the Cities of Denison, Pottsboro and Sherman, the Grayson County Regional Mobility Authority, the North Texas Regional Airport, their officers, directors, commissioners, representatives, agents, servants and employees.

Any questions regarding the operation of the Airport can be directed to the Airport Administration office at 903-786-2904.

**SAMPLE AVIGATION EASEMENT AND RELEASE FOR
NORTH TEXAS REGIONAL AIRPORT**

Recitals

[DEVELOPER/LANDOWNER] (“Owner”) is the owner of land located in Grayson County, Texas, more particularly described in Exhibit A attached to and incorporated in this Easement by this reference (“the Land”).

Owner desires to develop or change the use of the Land.

Owner is aware that the Land lies under the aircraft overflight area for aircraft utilizing the North Texas Regional Airport (the “Airport”).

Owner is willing to develop and use the Land subject to the right of flight over the Land and all normal effects of that flight.

Easement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the undersigned, Owner does hereby give and grant to Grayson County, the Airport, and the Airport’s grantees, lessees, sub-lessees, permittees, invitees, successors, and assigns a permanent and perpetual noise, aviation, and avigation easement over the Land for the purpose of the passage of all aircraft within the Navigable Airspace over and above the surface of the Land.

This easement shall include, but is not limited to, the right of aircraft to fly over the Land, together with its attendant noise, vibrations, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at, or taking off from, or operating at or on the Airport; and Owner does further release, discharge Grayson County and waive any right, claim, or cause of action against Grayson County, the Cities of Denison, Sherman and Pottsboro, the North Texas Regional Mobility Authority and their past, present, and future elected officials, officers, directors, employees, and agents, and the Airport’s officers, directors, employees, grantees, lessees, sublessees, permittees, invitees, successors and assigns, from and for any and all liability for any and all claims for damages of any kind to persons or property that may arise at any time in the present or in the future over, through, or in connection with the use of the Navigable Airspace over and above the Land.

Grantor, for and on behalf of itself, its heirs, successors and assigns, further covenants and agrees that upon the Land no use shall be permitted that causes a discharge into the air of fumes, smoke or dust which will obstruct visibility and adversely affect the operation of aircraft or cause any interference with navigational facilities necessary to aircraft operation.

This Avigation Easement and Release shall be binding upon Owner and Owner’s heirs, assigns and successors in interest to the Land, and this instrument shall be a covenant running with the land and shall be recorded in the office of the County Clerk of Grayson County, Texas.

IN WITNESS WHEREOF, Owner has caused this Avigation Easement and Release to be executed and signed by the undersigned duly authorized officer this _____ day of [Month], 20__.

“Owner”

[CORPORATE/ENTITY NAME], [correct as necessary]

By: _____
[Name, Title]

State of _____)

SS

_____ County)

The foregoing instrument was acknowledged before me on _____ by [Signer’s name], [Title] of [ENTITY NAME], [correct as necessary].

My commission expires:

Notary Public

Accepted by the Grayson County acting by ordinance through the North Texas Regional Airport

By _____

_____, Airport Director

___ day of _____, 20__

State of Texas

Grayson County

The foregoing instrument was acknowledged before me on _____ by _____, Airport Director, North Texas Regional Airport.

My commission expires:

Notary Public

JOINT AIRPORT ZONING BOARD

ITEM NUMBER: Five
MEETING DATE: 06-09-14

ITEM TITLE: Public Comments
SUBMITTED BY: Mike Shahan, Airport Director
DATE SUBMITTED: June 4, 2014

SUMMARY:

This item has been added so that the public may address the Board. Each person will be limited to three minutes.

ATTACHMENTS (LIST)

ALTERNATIVES/RECOMMENDATIONS: