

7 Land-Use Tools and Recommendations

NAS Patuxent River and local government agencies with planning and zoning authority share the responsibility for preserving land-use compatibility near the air station. However, cooperative action by all involved parties is essential to prevent land-use incompatibility, implement the AICUZ study recommendations, protect public health and safety, and safeguard the military flying mission.

The goal of the AICUZ Program —to protect the health, safety, and welfare of those living near military airfields while preserving the defense flying mission —can most effectively be accomplished by active participation of all interested parties, including Navy, local governments, private citizens, developers, real estate professionals, and others.

At the Installation level, the Base Commander is responsible for ensuring a successful AICUZ Program. Pursuant to OPNAVINST 11010.36C (AICUZ Program), the Air Installation Commander at NAS Patuxent River is committed to and shall:

- Implement an AICUZ Program for the Air Installation and associated OLF and Range Air Installations Compatible Use Zones (RAICUZ) for the ATR Inner Range;
- Work with state and local planning officials to implement the objectives of the AICUZ plan;
- If appropriate, designate a community liaison officer to assist in the execution of the AICUZ plan by the Installation and to act as spokesperson for the Command in AICUZ matters;
- Provide assistance in developing AICUZ information, including operational data needed to update the AICUZ plan; and
- Justify the retention of land or interest in land required for operational performance.

This section presents and describes land-use planning tools and recommendations for implementing and achieving a successful AICUZ Program.

7.1 Tools for Implementing AICUZ

7.1.1 Federal Tools

Environmental Review

Environmental review deals with assessment of projects that may have some potential impact on land use and the public's interest. For example, the National Environmental Policy Act (NEPA) mandates full disclosure of the environmental effects of proposed federal actions, approvals, or funding. Impacts of the action are generally documented in an EIS or an environmental assessment (EA), which is more limited in scope than an EIS. The environmental review process represents a procedure for incorporating the elements of the AICUZ in the planning review process.

Executive Order 12372, Intergovernmental Review of Federal Programs (July 1982)

As a result of the Intergovernmental Cooperation Act of 1968, the United States Office of Management and Budget (OMB) requires all Federal Aid Development Projects to be coordinated with and reinforce state, regional, and local planning. Executive Order 12372 allows state governments to set up review periods and processes for federal projects and provides an early entry point into the process to introduce AICUZ concepts and to discuss AICUZ issues.

Housing and Urban Development (HUD) Circular 1390.2

Approvals of mortgage loans from the Federal Housing Administration are subject to requirements of this HUD circular. The circular sets forth a discretionary policy to withhold funds for housing projects when noise exposure exceeds prescribed levels.

Residential construction may be permitted inside the 65dB DNL contour, provided sound attenuation is accomplished. However, the added construction expense of noise attenuation may make siting in these noise exposure areas financially less attractive. Because the HUD policy is discretionary, variances may also be permitted, depending on regional interpretation and local conditions. HUD also has a policy that prohibits funding for projects in Clear Zones and APZs unless the project is compatible with the AICUZ.

Encroachment Partnering

Another federal-level tool that represents a real opportunity for the Navy to partner with the community for the purposes of controlling future encroachment within the region surrounding NAS Patuxent River is the DoD Encroachment Partnering Program: Title 10, United States Code [U.S.C.] § 2684a, authorizes the Secretary of Defense or the Secretary of a military department to enter into agreements with an eligible entity or entities to address the use or development of real property in the vicinity of or ecologically related to a military installation or military airspace to limit encroachment or other constraints on military training, testing, and operations. Eligible entities include a state, a political subdivision of a state, and a private entity that has, as its principal organizational purpose or goal, the conservation, restoration, or preservation of land and natural resources or a similar purpose or goal. Encroachment Partnering Agreements provide for an eligible entity to acquire fee title, or a lesser interest, in land for the purpose of limiting encroachment on the mission of a military installation and/or to preserve habitat off the installation to relieve current or anticipated environmental restrictions that might interfere with military operations or training on the installation. The DoD can share the real estate acquisition costs for projects that support the purchase of fee or a conservation or other restrictive easement for such property. The eligible entity negotiates and acquires the real estate interest for encroachment protection projects with a voluntary seller. The

eligible entity must transfer the agreed upon restrictive easement interest to the United States of America upon the request of the Secretary.

7.1.2 Local Government Tools

Local Government Comprehensive Plans and Zoning and Planning

St. Mary's County's Comprehensive Plan, *Quality of Life in St. Mary's County - A Strategy for the 21st Century* recognizes the AICUZ and incorporates AICUZ into both its long-range planning and zoning requirements for key areas around NAS Patuxent River. With respect to zoning, the St. Mary's County Zoning Ordinance addresses AICUZ guidelines at NAS Patuxent River through creation of an AICUZ Special District. The AICUZ Special Overlay District consists of provisions for the Clear Zone, APZ 1, APZ 2, and Imaginary Surfaces, as well as provisions for Sound-Level Reduction and Notification to the FAA of "Proposed Construction or Alteration." St. Mary's County also can use guidance from OPNAVINST 11010.36C in order to develop permitted uses and regulations for the areas around public, private, and military airports. Implementation of airport Imaginary Surfaces zoning protection in Calvert County should be pursued.

Capital Improvements Projects

Capital improvements projects such as potable water lines, sewage transmission lines, road paving and/or improvements, new right-of-way acquisition, and schools can be used to direct growth and types of growth toward areas compatible with the AICUZ Program. Local government agencies and organizations can develop capital improvement projects that avoid extending capital improvements into or near high-noise zones or APZs.

Purchase of Development Rights

The local government may consider the purchase of development rights.

Transfer of Development Rights (TDR)

The concept of TDR involves purchasing property development rights and transferring those rights to another piece of property. Thus, development of the original property is prevented. Another element of the TDR program is the potential for developers to receive approvals for increased densities in the receiving areas as an inducement to the developer for agreeing to a TDR. TDRs also require local governments to adopt a TDR ordinance identifying sending and receiving areas in the jurisdiction.

Building Code

The local building code can be used to ensure the noise-attenuation measures of the AICUZ Program are implemented. Although this tool will not prevent incompatible development, building codes can ensure compatibility to the greatest extent possible.

Real Estate Disclosure

Real estate disclosures allow prospective buyers, lessees, or renters of property in the vicinity of military operation areas to make informed decisions regarding the purchase or lease of property. The purpose is to protect the seller, real estate agent, buyer, local jurisdiction, and military. Disclosure of aviation noise and safety zones is a very important tool in informing the community about expected impacts of aviation noise and location of airfield safety zones, subsequently reducing frustration and anti-airport criticism by those who were not adequately informed prior to purchase of properties within impact areas.

The state of Maryland and St. Mary's County have requirements for disclosure with an acknowledgement by both buyer and seller that the property is affected by noise and/or APZs.

NAS Patuxent River and Webster Field officials worked with the Southern Maryland Association of Realtors to adopt the following Military Aircraft Operations Disclosure Clause language

into a contract of sale between buyer and sellers. NAS Patuxent River officials are continuing to work with the state of Maryland Association of Realtors to adopt this language on the state level.

“The Property may be located within or near several military aircraft operation centers located in Calvert County, Charles County, Prince George’s County or St. Mary’s County. Properties located within or near such military aircraft operation centers may be impacted by varying degrees of noise levels and potential military aircraft accidents as well as noise from gunfire or explosive testing. The following is a description of such military aircraft operation centers; however, the following list is not all-inclusive:

Naval Air Station Patuxent River, Md., typically conducts flight operations seven days per week, between 8 a.m. and 11 p.m. However, infrequent flight operations occur outside these times. The effects from the Navy’s flight operations extend beyond the boundaries of the naval facility. The present level and type of operations will continue for the foreseeable future. For additional information, contact the NAS Patuxent River Public Affairs Office.

Buyer acknowledges that Buyer, prior to the submission of a written offer to purchase the Property, is solely responsible to contact the military aircraft operations centers as identified above which may impact upon the Property in order to ascertain the potential noise levels and accident probabilities in relation to the location of the Property within or near one or more of the above military aircraft operation centers.”

Public Land Acquisition Programs

Public land acquisition programs can be used (as the conditions of the programs permit) for acquisition of land to support the AICUZ Program. These programs take different forms in different jurisdictions and are administrated by a range of public agencies. With respect to AICUZ these programs could include an active land-acquisition program for the purpose of purchasing land to

protect key land assets around military airfields by limiting potential impacts from development and incompatible land use in proximity to the air station.

Special Planning Districts

Local governments have the power to create special planning districts such as “military influence areas” or “airport overlay zones/districts” where local governments can either enact restrictions on land development or require notification for proposed development within the special planning area.

7.1.3 Private Citizens/Real Estate Professionals/Businesses

Business Development and Construction Loans to Private Contractors

This strategy encourages review of noise and accident potential as part of a lender’s investigation of potential loans to private interests for real estate acquisition and development. Local banking and financial institutions should be encouraged to incorporate a “Due Diligence Review” of all loan applications, including determination of possible noise or APZ impacts on the mortgaged property.

Private Citizens

Private citizens should make informed decision when considering purchasing land within the AICUZ noise or APZ contours.

Real Estate Professionals

Real estate professionals should ensure that prospective buyers or lessees are fully aware of what it means to be within a high-noise zone and/or APZ. Truth-in-sales and rental ordinances can be enacted to ensure adequacy in providing public disclosure of the impact in high noise and accident potential zones. Real estate professionals also have the ability to show prospective buyers and

lessees properties at a time when noise exposure is expected to be at its worst in order to provide full disclosure.

7.2 Recommendations

7.2.1 NAS Patuxent River Recommendations

Although ultimate control over land use and development in the vicinity of NAS Patuxent River is the responsibility of St. Mary's County, the Navy has the ability and responsibility to conduct actions and implement programs in support of local efforts. To do so, NAS Patuxent River should continue and/or consider the following:

Air Operations Procedures

Aircrew discipline in pattern operations should be enforced along with field noise abatement procedures, as set forth in Section 4.4. The Navy should continue to examine ways to improve noise abatement procedures.

Continue the Successful Noise Complaint Hotline

A standard procedure is followed for noise complaints called into NAS Patuxent River from operations at the airfield and surrounding airspace. This procedure is outlined in Section 4.4.1 of the AICUZ Study. Complaints should be collected in a standard format for plotting locations in a spatial database for future planning use. Recording these complaints can help:

- Document newly developing sites that may be noise-sensitive in the future;
- Provide land-use planning information for the local government;
- Determine which operational flight tracks may be responsible for the noise complaint and at what time most complaints occur; and
- Provide valuable information for real estate transactions.

Community Outreach Activities

Continue successful community outreach efforts that have begun at NAS Patuxent River. Currently there is a productive working relationship between the Base Community Planning and Liaison Office and St. Mary's County. Several successful initiatives have started and future initiatives aimed at further protecting Navy assets should continue or expand.

Presentation of the AICUZ Program

This presentation could be shown individually or collectively to community decision makers, including local planning commissions, city councils, county legislatures, government councils, and other interested agencies. It would provide an opportunity to inform and educate individuals or groups who make land use decisions (e.g., infrastructure siting, schools, zoning changes) that can either protect or threaten NAS Patuxent River's mission. For this, the NAS Patuxent River Web site could be expanded to include AICUZ-specific topics, and various materials for presentation and distribution should be developed or updated to include flight simulations, videos, poster boards, an electronic or slide presentation, and fact sheets. Presentation information could be used as part of the community outreach activities and would inform the general public on AICUZ issues, the installation's contribution to the local economy, and the need for responsible land use planning.

Keep Engaged in the Local Planning Process

NAS Patuxent River should attend public hearings and provide comments on actions that may affect AICUZ planning, including comprehensive plan and land development regulations updates and amendments.

Local Plans, Regulations, and Policies

NAS Patuxent River should continue to be an active participant in local government and regional reviews, recommendations, and decision-making processes for land use

decisions that may affect the operational integrity of the installation, including:

- Capital improvements plans, such as potable water lines, sewage transmission lines, road paving and/or improvements, and new right-of-way acquisition;
- Building code changes;
- Ensuring necessary ordinances and record-keeping capability to enact restriction within the AICUZ footprint;
- Community facilities construction (e.g., schools, stadiums, and churches);
- Establishment of local zoning ordinances and comprehensive plans or other such ordinances that may affect the installation; and
- Approvals for subdivisions, site plans, wetland permits, or other proposed approvals necessary for development.

7.2.2 Local Government and Agency Recommendations

Communication

While it is NAS Patuxent River's responsibility to inform and educate community decision makers about the AICUZ Program, community decision makers should continue to actively inform and seek input from NAS Patuxent River regarding land use decisions that potentially could affect the operational integrity of the Installation.

To communicate with the public, local government Web sites should continue to provide acknowledgement of the AICUZ Program for NAS Patuxent River and provide a link to the NAS Patuxent River Web site for information on aircraft operations and the NAS Patuxent River AICUZ Program.

Decisions with Future Impacts

It is recommended that when local governments make land use decisions in proximity to the established AICUZ footprint, local governments recognize:

- Noise contours and APZs comprising the AICUZ footprint are dynamic, and potential exists for changes in the AICUZ footprint as operational needs to satisfy the military mission change; and
- Because of the AICUZ Program's dynamics, it is recommended local governments work with NAS Patuxent River to establish a special planning area (or district) for areas outside the established APZ that are most likely to present compatibility problems, given changes in operations at NAS Patuxent River. As a beginning point, it is recommended local governments use the flight tracks presented in Section 3.4.2 to preserve the operational integrity of these flight tracks and protect the health and safety of the underlying population.

Land-Use Plans and Regulations

As discussed in Section 7.1.2, local governments currently within the AICUZ footprint recognize their responsibility in providing land-use controls in areas encumbered by the AICUZ footprint to protect the health, safety, and general welfare of the population. The degree to which these land-use controls are consistent with those recommended under Navy guidance varies greatly.

Capital Improvement

It is recommended that all capital improvement projects in proximity to the installation be evaluated and reviewed for potential direct and indirect impacts that such improvements may have on the ability to implement a successful AICUZ Program.

Building Codes

Local building codes should be reviewed and/or modified to ensure consistency with noise-attenuation recommendations of the AICUZ Program, as specified in OPNAVINST 11010.36C.

Public Land Acquisition Programs

These programs should be reviewed to ascertain whether they can be used in support of the AICUZ Program.

7.2.3 Private Citizens/Real Estate Professionals/Businesses Recommendations

Real Estate Professionals

Real estate professionals should:

- To the greatest extent possible, make prospective buyers and lessees aware of the potential magnitude of noise exposures they might experience;
- Provide written disclosure to prospective purchasers, renters, or lessees when a property is located within an APZ or high-noise zone;
- Provide an AICUZ brochure to prospective buyers and lessees; and
- Provide on their Web sites acknowledgement of the AICUZ Program for NAS Patuxent River and provide a link to their Web site for information on aircraft operations and the AICUZ Program at NAS Patuxent River.

Business Development and Construction Loans to Private Contractors

Lending institutions should consider whether to limit financing for real estate purchases or construction incompatible with the AICUZ Program. This strategy encourages review of noise and accident potential as part of a lender's investigation of potential loans to private interests for real estate acquisition and development. Diligent lending practices will promote compatible development of the area surrounding NAS Patuxent River and protect lenders and

developers alike. Local banking and financial institutions should be encouraged to incorporate a “Due Diligence Review” of all loan applications, including determination of possible noise or APZ impacts on the mortgaged property. The Navy can play a role in this strategy by providing AICUZ seminars to lenders throughout the region.

Citizens

The citizens of the local community have a responsibility to:

- Become informed about the AICUZ Program at NAS Patuxent River and learn about the program’s goals and objectives; its value in protecting the health, safety, and welfare of the population; the limits of the program; and the positive community aspects of a successful AICUZ Program.