

# PRESERVE OUR AIRPORT

Do Not Approve the Proposed Hidden Lakes Development



Presented by Friends Of New Smyrna Beach Airport, Inc.





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# Section 1

# PRESERVE OUR

# AIRPORT

Do Not Approve the Proposed Hidden Lakes Development



Presented by Friends Of New Smyrna Beach Airport, Inc.



## **Do Not Approve the Proposed Hidden Lakes Development (Prop HL)**

### **I. Introduction.**

On May 29, 2007 the Florida Department of Community Affairs (“DCA”) received the City of New Smyrna Beach’s proposed Comprehensive Plan Amendment 07-1 (Hidden Lakes – “Prop HL”), which proposed more than tripling the zoned housing density from 43 houses to 132 houses, on 55 acres whose northern border is a little over 400 feet from Rwy. 2/20, whose extended centerline substantially bisects Prop HL’s buildable land.<sup>1</sup>

On 7/27/2007 the DCA objected to Prop HL for three reasons:

1. Safety: The DCA noted that the majority of the site lies directly under the runway approach; that departures will require aircraft to fly directly over this area, usually under full power; and that unsafe living conditions for residents of Prop HL could result.<sup>2</sup>
2. Noise Incompatibility: The DCA also objected to Prop HL for noise incompatibility reasons; stated concern with aircraft noise levels in the Prop HL site, which largely lies in the 60 decibel noise contour, and that departures will require aircraft to fly directly over Prop HL under full power.<sup>3</sup>
3. Encroachment On Our Airport: The DCA also objected to Prop HL because it would encroach on an existing airport facility with incompatible land uses, and determined the proposed amendment is inconsistent with the requirements of Rule 9J-5.019(4)(c)21., F.A.C., which protect airports and related facilities from encroachment of incompatible land uses.<sup>4</sup> In addition, the DCA noted the proposed amendment is not consistent with Sections 163.3177(6)(a), 163.3177(6)(j)5., and 7., 163.3177(10)(1) F.S.

The DCA recommended to not adopt the amendment.

On 1/14/2008 the City resubmitted the proposed plan amendment.

The DCA did not withdraw its objections. To our knowledge, the DCA’s only written response noted:

1. Regarding Noise: Where existing homeowners perceive airport noise as unacceptable, there is no reason to believe Prop HL homeowners won’t perceive the same thing, especially since Prop HL would be more in-line with the approach and departure end of an active runway.<sup>5</sup>
2. Regarding Safety: The main concern is with safety. With residential development this close to the approach and departure end of an active runway, the results of an incident like the one in Sanford could have similar catastrophic results.<sup>6</sup>
3. Regarding the Prop HL land’s best use: The property can be better served by the construction of a more compatible development such as commercial or industrial development. Further non-compatible development, such as residential development, could restrict the operations of the airport and therefore have a significant direct impact on the City and surrounding area in terms of economic development.<sup>7</sup>

In the meantime, numerous organizations have weighed in against Prop HL on the grounds that it is incompatible with the airport due to safety and noise reasons: Florida Department of Community Affairs (DCA)<sup>8</sup>, Florida Department of Transportation (FDOT)<sup>9</sup>, New Smyrna Beach Airport Advisory Board (AAB)<sup>10</sup>, Aircraft Owners and Pilots Association (AOPA)<sup>11</sup>, and Friends Of New Smyrna Beach Airport, Inc.

(FONSBA)<sup>12</sup> The Federal Aviation Administration (FAA) objects to offices built within Runway Protection Zones, such as the Rwy 20 Departure RPZ which covers most of the Prop HL north triangle.

During the 4/29/08 Airport User's Meeting, in apparent response to the FAA's RPZ objections, shortening runway 2/20 was proposed. No credible reasons were given; the only beneficiary of closing the 785 southern feet of Rwy. 20 appears to be Prop HL, because the Rwy. 20 Departure RPZ would be moved off the Prop L north triangle. Prop HL hired a consultant to lobby for shortening Rwy. 2/20.

This paper is intended present the reasons that Prop HL should not be approved (incompatibility with the airport due to safety and noise reasons), and provide authority that the City is obliged under the airport Quitclaim Deed, and the FAA grant assurances, to prevent incompatible development such as Prop HL close to our airport.

## **II. The Proposed Development Is Not Compatible With The New Smyrna Beach Airport Because It Lies Squarely Within an Area of Demonstrated Noise Incompatibility.**

Noise complaints from the residential areas surrounding New Smyrna Beach airport (KEVB) have increased dramatically, commensurate with the increase in air traffic at KEVB from 140,554 during the 12 months ending May 2002, to 161,375 during the 12 months ending 11/2007.

The residents surrounding KEVB have organized as a Florida corporation NSBAirportNoise, Inc., whose website [NSBAirportNoise.com](http://NSBAirportNoise.com) features a forum and “click-to-complain” link to simultaneously complain about airport noise to leading City government officials. (“One click will get your email to Airport Manager Rhonda Walker, Public Works Director Khalid Resheidat (Ms. Walker's boss), City Manager John Hagood (Mr. Resheidat's boss), and the entire City Commission (Mr. Hagood's boss). A copy of your email will also be returned to this website so that we may regularly compare actual complaints to the Airport Manager's list.”).

The airport manager has received an ever-increasing flow of noise complaints; the Mayor and City Commissioners have received noise complaint telephone calls at home. Numerous signs complaining of airport noise dot the surrounding developments' lawns.

The Mayor has taken the unusual step of conducting a series of workshops with the community to discuss the ongoing noise problems. The KEVB Noise Abatement Committee was reconvened 6/12/2008 to recommend noise-mitigation tactics to the KEVB Airport Advisory Board; its first measure passed (unanimously) was to preserve the noise-mitigation function of runway 2/20 by voting to condemn any shortening or closing of runway 2/20.

In addition, the City has commissioned a Part 150 noise study costing close to \$300,000 to assess the impact of KEVB airport noise, and to recommend solutions.

Many of the developments from which noise complaints stem are located farther away from KEVB than Prop HL. Let's have a look at an aerial photograph<sup>13</sup>:

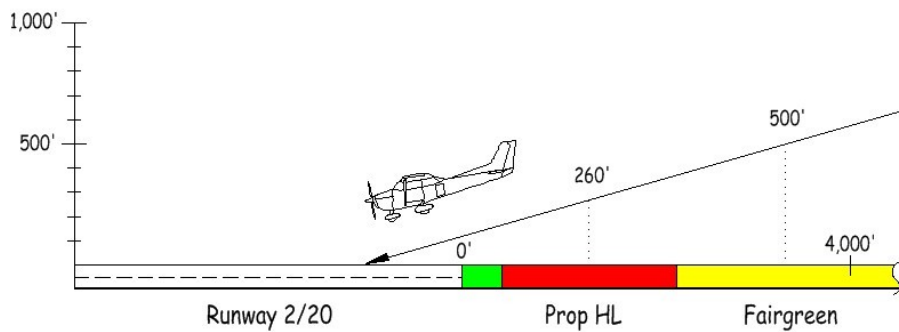


Note that the existing Fairgreen neighborhood is about twice as far from the south end of runway 2/20 as Prop HL. Yet there are widespread airport noise problems in Fairgreen: during the 4/14/2008 KEVB Airport Advisory Board meeting Fairgreen resident Marissa Mccoy stated that a lot of people at Fairgreen think there is an airport noise problem at Fairgreen; during the 3/11/2008 City Commission meeting Fairgreen resident

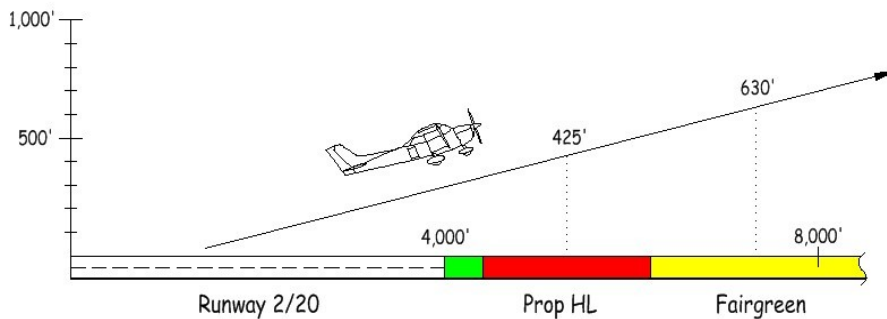
George Dexter stated that airport noise in Fairgreen is too much and demanded that the City Commission impose operational restrictions on the airport.

Fairgreen airport noise problems have persisted for years: *see, e.g.* Fairgreen resident Andre Raevsky's 7/7/2003 letter to the FAA requesting operating restrictions to limit runway 2/20 traffic overflying Fairgreen.

Look at the figure below: landing airplanes overflying Prop HL would be about twice as loud to Prop HL houses as to Fairgreen houses, because landing traffic overflying Prop HL would be twice as low over the houses below as when overflying Fairgreen.<sup>1415</sup>



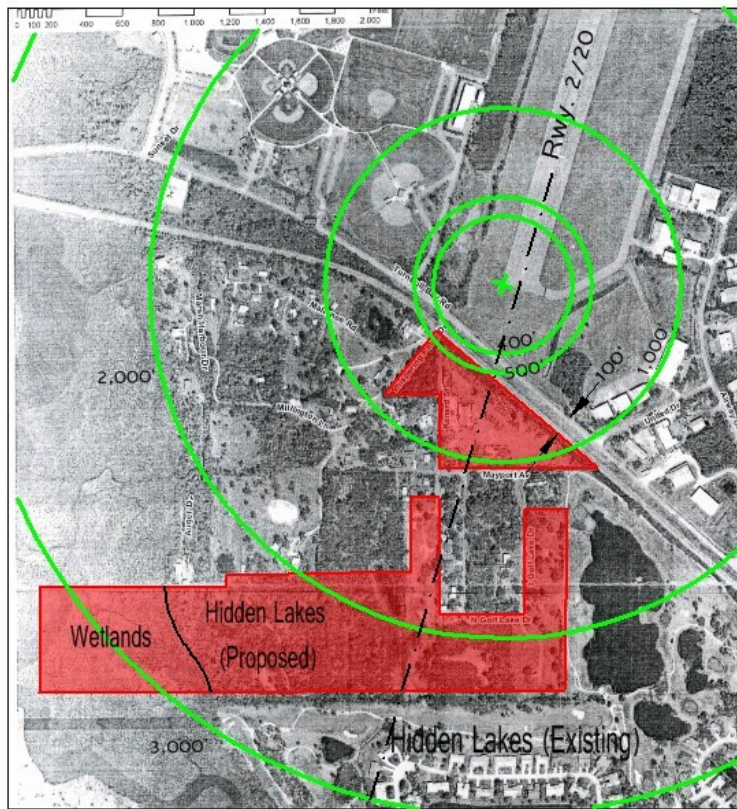
Referring to the figure below: airplanes taking off over Prop HL would be about 50% louder to Prop HL houses as to Fairgreen houses, because airplanes taking off over Prop HL would be about 50% lower over the Prop HL houses below as when overflying Fairgreen.<sup>1617</sup>



Where on-going, large-scale noise complaints already exist, as around KEVB, it is self-evident that residential developments are incompatible within the area where the on-going, large-scale noise complaints exist.

Recognizing this reality, official noise compatibility guidance publications recognize that *de facto* noise incompatibility exists by definition where wide-spread, continuous noise complaints occur.<sup>18</sup> The state of Florida has withdrawn its Airport Compatible Land Use Guidance publication (pending revision), but other publications are illustrative. For many communities, 65 db CNEL is too high for land use planning.<sup>19</sup> An area of demonstrated noise incompatibility is any community or neighborhood which has shown itself to be affected by airport-related noise concerns by a substantial ongoing pattern of noise complaints received and logged by airport administration by multiple members of the community.<sup>20</sup>

Many of the developments from which noise complaints stem are located farther away from KEVB than Prop HL. Let's have a look at a scale map<sup>21</sup>:



***The development would start little more than 400 feet from the concrete of runway 2/20 – just 100 feet from the airport itself, right across Turnbull Bay Road.***

Note the buildable area of Prop HL extends from approx. 400 feet south to 3,000 south of runway 2/20 – closer to KEVB than the existing noise complaint-generating Fairgreen development, and closer to KEVB than many of the other developments from which the constant flow of complaints originates. Worst yet, Prop HL lies directly under the extended centerline of 2/20, so the noise will be louder than in most of the other developments.

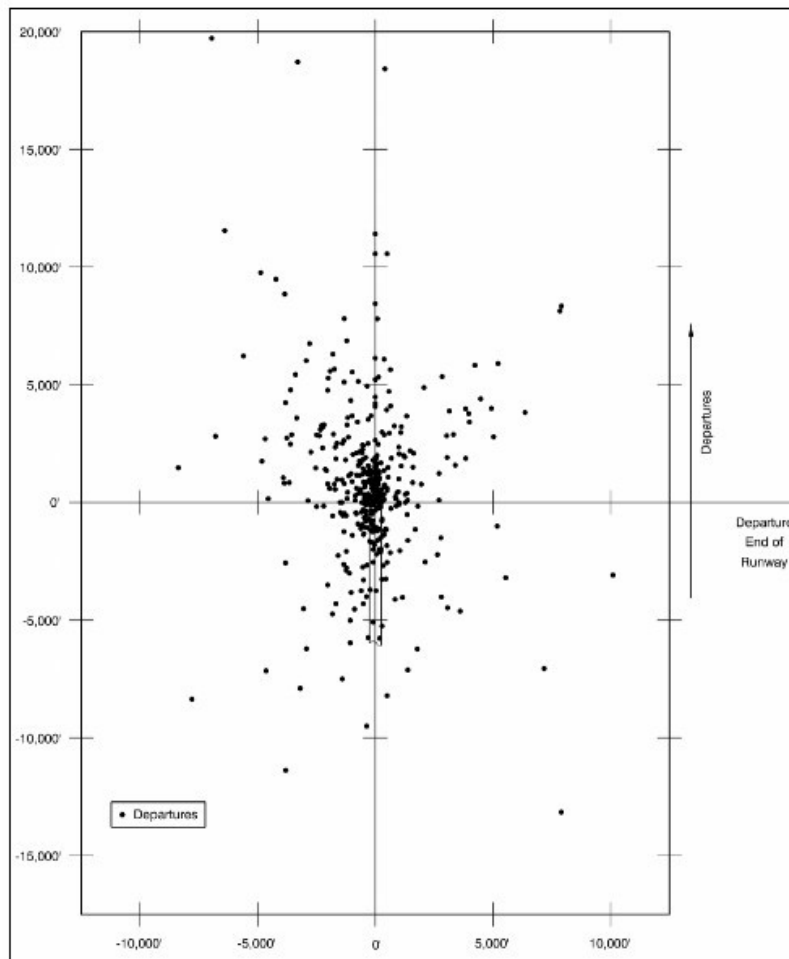
**Thus, the proposed Hidden Lakes development sits squarely within an area of demonstrated noise incompatibility, and the FLUM amendment should not be granted because of this already-existing incompatibility.**

### **III. Prop HL Is Not Compatible With the New Smyrna Beach Airport for Safety Reasons.**

**A. The bulk of the buildable area of Prop HL lies within Airport Impact Zone 1, 2, and/or 5, where recommended land uses prohibit residential developments, and allow low-density (less than 5 people per acre) industrial development, for safety reasons.**

Although the state of Florida has withdrawn its Airport Compatible Land Use Guidance publication, the FDOT looks to the FAA publication Land Use Compatibility and Airports as good authority.<sup>22</sup> Land Use Compatibility and Airports states Airport owners can define Airport Impact Zones and identify appropriate land use zoning for each impact zone.<sup>23</sup> Impact zone locations are based on aircraft incident investigation data provided by the National Transportation Safety Board, the agency charged with aircraft accident investigation.<sup>24</sup>

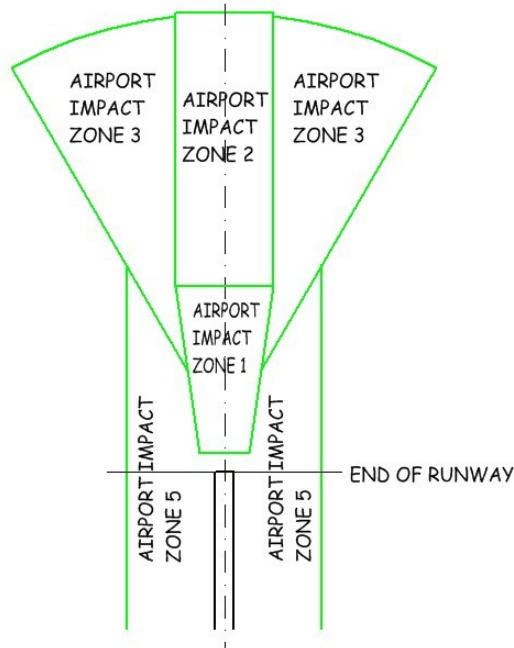
The analysis of Airport Impact Zone location starts with scatter charts, such as aircraft accidents relative to end-of-runway<sup>25</sup>:



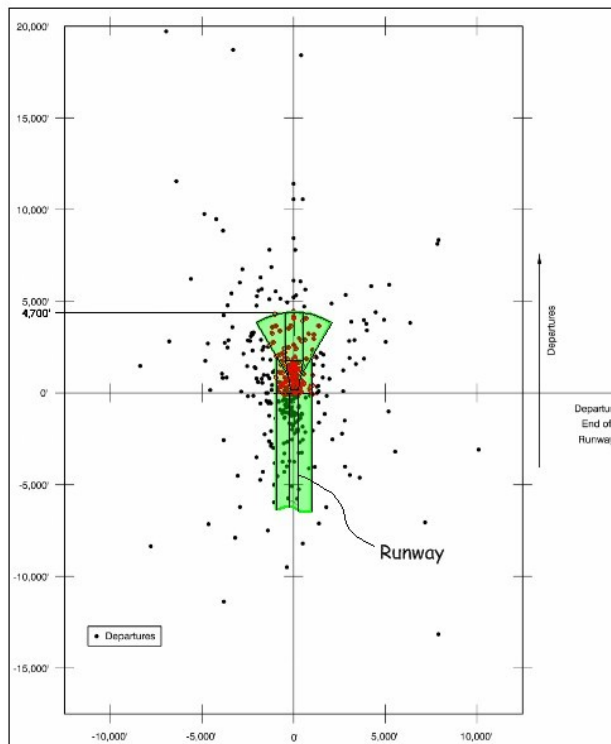
The attempt is then made to fit Airport Impact Zones around accident concentrations. Relevant Airport Impact Zones here include:

- Airport Impact Zone 1 – Runway Protection Zone
- Airport Impact Zone 2 – Inner Safety Zone
- Airport Impact Zone 3 – Inner Turning Zone (60-degree sector)
- Airport Impact Zone 5 – Sideline Safety Zone

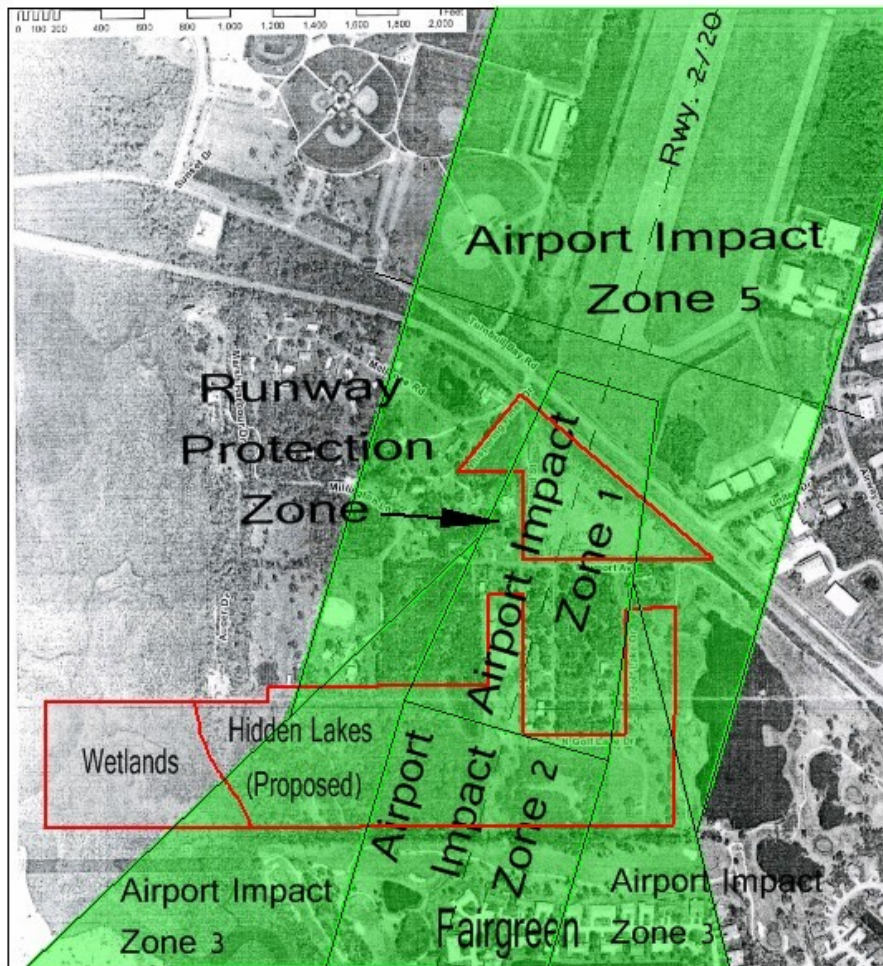
Recommended land uses in Zones 1, 2 and 5 prohibit residential developments, and limit industrial development to low-density (less than 5 people per acre).<sup>26</sup> Recommended land uses in Zone 3 range from zero to low-density residential developments, and industrial development limited to 25 – 40 people per acre.<sup>27</sup> Applied to KEVB's 4,001 ft. runway 2/20, these Airport Impact Zones look like this<sup>28</sup>:



Superimposing KEVB's Airport Impact Zones 1, 2, 3 and 5 on the previous scatter chart yields the following (accident sites within Airport Impact Zones 1, 2, 3 and 5 beyond rwy. end are shown in red):



The locations of KEVB Airport Impact Zones 1, 2, 3 and 5 are as follow:



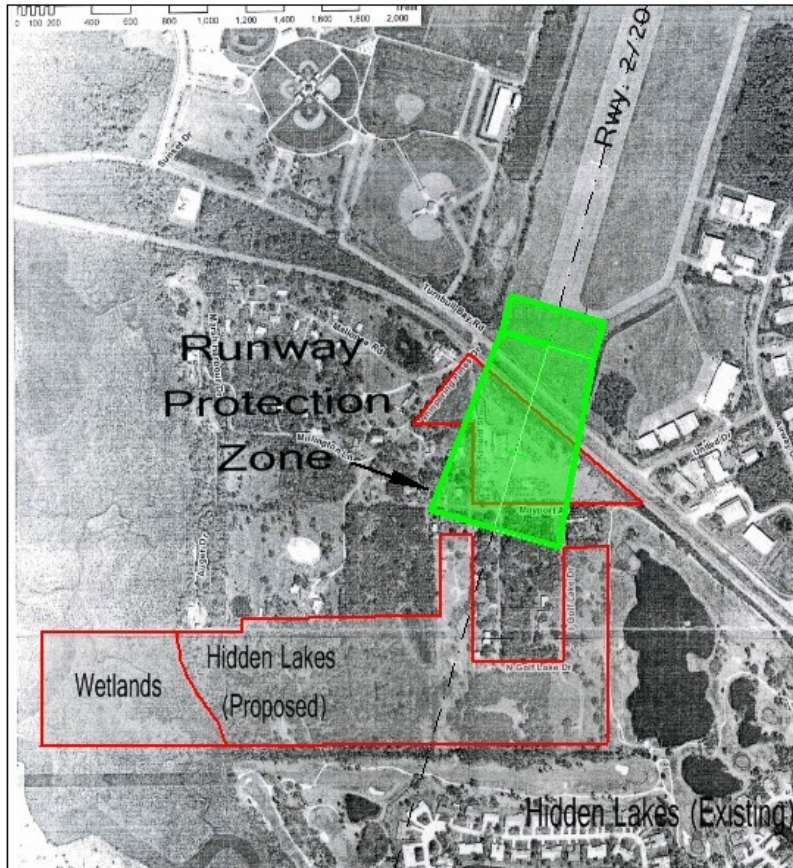
It's easy to see why the FAA recommends no residential construction (and 5 persons/acre max. industrial uses) within Airport Impact Zones 1, 2 and 5! But more than 2/3 of the buildable area of the proposed Hidden Lakes development tract lies within Airport Impact Zone 1, 2, and/or 5, where recommended land uses prohibit residential developments, and allow low-density (less than 5 people per acre) industrial development, for safety reasons.<sup>29</sup>

Part of Prop HL lies within Airport Impact Zone 3, where recommended land uses range from zero to low-density residential developments, and industrial development limited to 25 – 40 people per acre.

Therefore, because virtually all of the buildable area Prop HL tract lies within Airport Impact Zones 1, 2, 3 and/or 5, the proposed development is not compatible with the New Smyrna Beach airport for safety reasons.

**B. The Rwy. 2/20 Departure RPZ, Where Offices Are Prohibited, Covers Most of the Prop. HL Northern Triangle.**

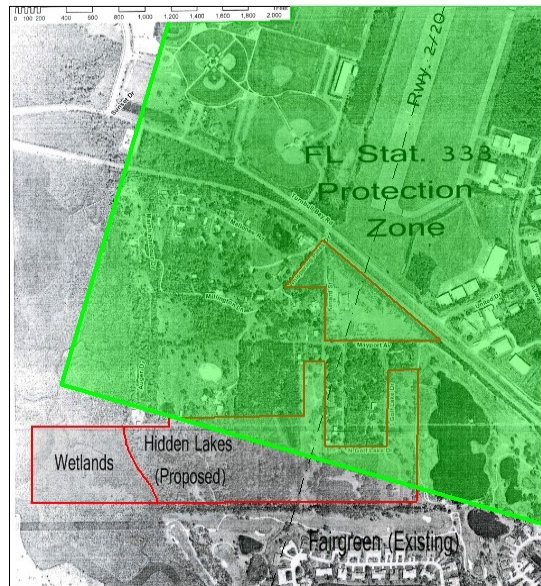
The 2/20 Departure Runway Protection Zone (“RPZ”) covers approximately 70% of the Prop. HL northern triangle<sup>30</sup>. The RPZ’s function is to enhance the protection of people and property on the ground.<sup>31</sup> Land uses prohibited from RPZs include residences and places of public assembly (such as churches, schools, hospitals, office buildings, shopping centers and other uses with similar concentrations of persons, and fuel storage facilities).<sup>32</sup> Automobile parking facilities, although discouraged, may be permitted outside the RPZ central portion.<sup>33</sup> For airport projects receiving Federal grant-in-aid assistance, the use of these standards is mandatory.<sup>34</sup>



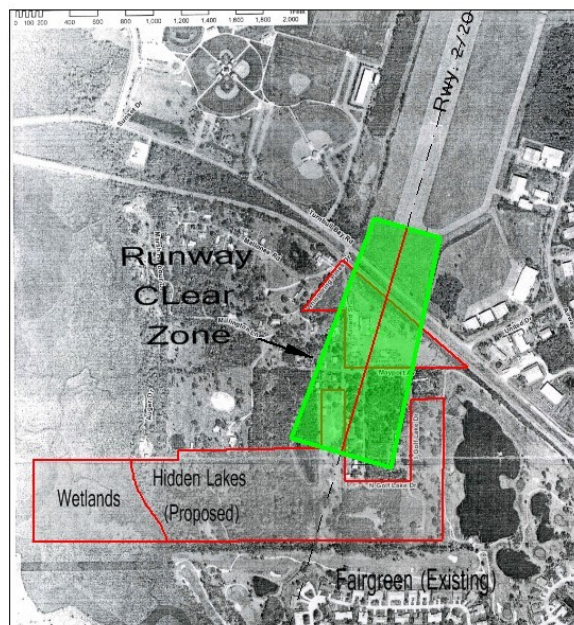
**C. Florida Statutes Chapter 333 Guidance.**

Florida Statutes Chapter 333 provides guidance as to what types of development are permitted in close proximity to an airport. Absent any local ordinance, Chapter 333 is mandatory by default. However, where a city has adopted an airport zoning ordinance, FDOT is not enforcing the FL Stat. 333 Protected Zone or Clear Zone, due to ambiguity in the statute.<sup>35</sup> Accordingly, while apparently not mandatory here, the FL Stat. 333 Protected Zones and Clear Zones provide guidance as to what types of development FDOT views as incompatible in airport vicinities.

**The south FL Stat. 333 Protected Zone (“PZ”)** currently covers a substantial amount of the buildable Prop. HL wrench tract, where 132 houses are proposed. If this provision applied, and no noise study has been conducted, neither residential construction nor any educational facility would be permitted 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.<sup>36</sup> No FAR Part 150 noise study has been performed<sup>37</sup>. The south FL Stat. 333 is shown below:



**The south FL Stat. 333 Clear Zone (“CZ”)** currently covers most of the Prop. HL northern triangle, and one of the Prop. HL wrench jaws. If applicable, uses which are restricted in FL Stat. 333 CZs include new incompatible land uses which are incompatible with normal airport operations, or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds.<sup>38</sup> No educational facilities are permitted at either end of a runway within an area which extends 5 miles from the runway along its extended centerline, and which has a width equal to half the length of the runway.<sup>39</sup>



#### **IV. Numerous Organizations Object to Prop HL Due to Noise and Safety Incompatibility.**

The following organizations object to Prop. HL on the grounds that it is incompatible with the airport due to safety and noise reasons: Florida Department of Community Affairs (DCA)<sup>40</sup>, Florida Department of Transportation (FDOT)<sup>41</sup>, New Smyrna Beach Airport Advisory Board (AAB)<sup>42</sup>, Aircraft Owners and Pilots Association (AOPA)<sup>43</sup>, and Friends Of New Smyrna Beach Airport, Inc. (FONSBA)<sup>44</sup>. The Federal Aviation Administration (FAA) objects to offices built within Runway Protection Zones, such as the Rwy 20 Departure RPZ which covers most of the Prop HL north triangle.

##### **A. The FL Department of Community Affairs Recommends Non-Adoption of Prop HL:**

The majority of the site lies directly under the runway approach, raising concerns with respect to safety and noise levels on the proposed development site. Based on the 2005 Airport Master plan for future noise contours, the majority of this area will be located in the 60 decibel noise contour...Departures will require aircraft to fly directly over this area, usually under full power.

The increase in density in proximity to the New Smyrna Beach Airport will encroach on the existing airport facility with incompatible land uses, which could result in unsafe living conditions for residents of the proposed development. The amendment is inconsistent with the requirements of Rule 9J-5.019(4)(c)21., F.A.C., protecting airports and related facilities from encroachment of incompatible land uses.

The proposed amendment is not consistent with the following requirements: Sections 163.3177(6)(a), 163.3177(6)(j)5., and 7., 163.3177(10)(1) F.S. Rule 9J-5.019(4)(c)21., F.A.C.

**Recommendation: Do not adopt the proposed amendment.**<sup>45</sup>

Despite the City's 1/14/08 Resubmittal of the proposed plan amendment, the DCA has not withdrawn its objections.<sup>46</sup>

##### **B. The New Smyrna Beach Airport Advisory Board Recommends that Prop HL Not Be Approved.**

The New Smyrna Beach Airport Advisory Board passed its resolution on 4/14/2008 (included in Section 2 Resolutions) recommending to the City Commission that the Hidden Lakes Development not be approved. The AAB noted that Prop HL will create a greater opportunity for more noise complaints from the increase in population immediately in the flight path of aircraft off Runway 2-20. The AAB also pointed out that Prop HL may increase the possibility of possible airplane accidents.<sup>47</sup>

The Resolution of Friends Of New Smyrna Beach, Inc. To Not Permit the Proposed Hidden Lakes Development to the City Commission, Airport Advisory Board, DCA, FAA, and FL DOT is also included in Section 2 Resolutions.

## **V. Public Sentiment Runs Strongly Against Prop HL.**

A Petition signed by 925 airport supporters opposing Prop. HL as incompatible with the airport and requesting that it not be permitted is included in Section 2 Petitions.

A Petition signed by 132 airport workers and their families opposing Prop. HL as incompatible with the airport and requesting that it not be permitted was submitted to the NSB City Counsel on 4/8/2008, and is included in Section 2 Petitions, having been signed by 135 airport workers and their families.

## **VI. Given Prop HL's Incompatibility With The Airport, the City Has Affirmative Contractual Obligations, Both Under the 1947 Quitclaim Deed And the FAA Grant Assurances, to Not Permit The Development.**

### **A. The City is Bound by FAA Grant Obligations to Zone Against Incompatible Development.**

Under the FAA grant assurances, as a recipient of FAA funding, the city of New Smyrna Beach is bound by FAA grant obligations. The airport sponsor (meaning the City of New Smyrna Beach) assures and certifies that it will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including the landing and takeoff of aircraft.<sup>48</sup>

### **B. The City is Bound by the Airport Quitclaim Deed to Zone Against Incompatible Development.**

As Grantee under the 4/10/1947 airport Quitclaim Deed, the City became obliged to operate our Airport as an airport in perpetuity. In addition, the City became obliged to prevent any use of land either within or outside the boundaries of the airport, which use would be a hazard to landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.<sup>49</sup>

As noted above, Prop HL would decrease air safety. The effort to close part of Rwy. 2/20, apparently sponsored by Prop HL, would limit the usefulness of this runway and the usefulness of the airport as a whole. Therefore, under the City's obligations specified in the 4/10/1947 airport Quitclaim Deed, the City is obliged to not permit land use which would be hazardous to aircraft at the airport, and is also obliged to not permit land use which would limit the usefulness of our airport.

## **VII. Conclusion.**

Prop HL should not be approved because it is incompatible with our airport for noise reasons. Airport management and city officials are already receiving a river of aircraft noise complaints from neighborhoods farther away from Prop HL's target location, and not directly under a runway centerline like Prop HL.

Prop HL should not be approved because it is incompatible with our airport for safety reasons. Prop HL's north triangle is largely covered by the Rwy. 20 Departure RPZ, where the FAA prohibits offices. In apparent reaction to this reality, there is a movement afoot to close part of Rwy. 20, which would retract the Rwy. 20 Departure RPZ north, off the Prop HL north triangle. Prop HL has hired a consultant to lobby for closing part of Rwy. 20. The sole beneficiary of this runway closing appears to be Prop HL, at the cost of safety and noise mitigation.

Ironically, the fact that Prop HL hired a consultant to lobby the City Commission to close part of our public airport proves the incompatibility of Prop HL with the airport: if Prop. HL *were* compatible with our airport, *it wouldn't require closing part of the airport* to increase its chances of approval. By its own actions, the private Prop HL has proven its incompatibility with our public airport.

In addition, Prop HL lies almost entirely within Airport Impact Zones 1, 2, 3 or 5. Recommended land uses in Zones 1, 2 and 5 prohibit residential developments, and limit industrial development to low-density (less than 5 people per acre). Recommended land uses in Zone 3 limit residential use to low-density, and limit industrial development to 25 – 40 people per acre. Prop HL's 132 houses and north triangle offices would violate the FAA usage recommendations of Zones 1, 2, 3, and 5.

Recognizing Prop HL's incompatibility with the airport, numerous organizations object to Prop HL. Strong public sentiment runs against this incompatible land use, as documented by petitions to not approve Prop HL, cumulatively bearing over 1,000 signatures.

Given that Prop HL is incompatible with the airport, the City has affirmative contractual obligations, both under the 1947 Quitclaim deed and the FAA grant assurances, to not permit the development.

Therefore, Prop HL, with its proposed tripling of residential density in close proximity to the airport, and its proposed offices within 500 feet of the runway, should not be approved.

## <sup>1</sup>VIII. Endnotes

*See* Chad T. Lingenfelter (NSB Development Services) 1/29/08 e-mail; City of New Smyrna Beach – Development Services A-13-06: GGHL, LLC/The Village at Hidden Lakes pg. A-1 (1/8/2007); *See also* Scale Map in Section I of this paper.

<sup>2</sup> State of Florida Department of Community Affairs Objections, Recommendations, and Objections pg. 5 (7/27/2007).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*, pgs. 5, 6.

<sup>5</sup> *See* FDOT's James Wikstrom 3/4/08 letter to DCA's A. R. Rodriguez, forwarded to City Planning, forwarded to Prop HL developer.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *See, e.g. Objections, Recommendations and Comments* pgs. 5, 6 (DCA 7/27/2007).

<sup>9</sup> *See, e.g. James Wickstrom 3/4/07 e-mail.*

<sup>10</sup> AAB resolution adopted 4/14/2007.

<sup>11</sup> *See, e.g., Bill Dunn, AOPA Vice-President-Airports correspondence of 12/21/2007 and 2/21/2008.*

<sup>12</sup> *See, e.g., Friends Of New Smyrna Beach Airport, Inc. correspondence of 1/2/2008 and 2/7/2008.*

<sup>13</sup> The depiction of the proposed development in the figures in this paper are based on the City of New Smyrna Beach Development Services A-13-06: GGHL, LLC/The Village at Hidden Lakes dated 1/8/2007 and other maps provided by the City. This illustrations are believed to be reasonably accurate for the purposes of showing the position of the proposed development relative to the airport and the depicted protected zones, but its accuracy is not guaranteed.

<sup>14</sup> During a normal landing, aircraft landing on Rwy. 2 typically overfly Fairgreen at around 500', and have descended to around 250' over Prop HL.

<sup>15</sup> *See Sound Reinforcement Handbook* pg. 43 (Written for Yamaha by Gary Daves & Ralph Jones, Hal Leonard Publishing Corporation Milwaukee WI 1990).

<sup>16</sup> *Id.*

<sup>17</sup> The aircraft charted is a typical training aircraft, a Cessna 172. *See Cessna 1979 Skyhawk Cessna Model 172N Information Manual*, (Cessna Aircraft 1979), pg. ii (Distance to clear a 50 foot obstacle is 1,440') and pg. 5-14 (at 86 °, Sea Level rate of climb at 73 KIAS is 725 feet/min.) 1 min. after clearing 50 feet the aircraft would be at 775' (50' + 725'), 8,832' from the beginning of its take-off run (73 nm/hr X 6,076 ft/nm) / 60 min/hr = 8,832'. Graphing this slope yields aircraft departure altitude of approx. 425' over Prop HL; 630' over Fairgreen.

<sup>18</sup> *See Airport Land Use Plan – Paso Robles Airport* pg. 4 – 3 (Airport Land Use Commission 5/16/2007 at [www.prcity.com](http://www.prcity.com)).

<sup>19</sup> *See California Land Use Planning Handbook* pg. 3-3 (January 2002).

<sup>20</sup> *See Airport Land Use Plan – Paso Robles Airport* pg. 4 – 3 (Airport Land Use Commission 5/16/2007 at [www.prcity.com](http://www.prcity.com)).

<sup>21</sup> The depiction of the proposed development in the figures in this paper are based on the City of New Smyrna Beach Development Services A-13-06: GGHL, LLC/The Village at Hidden Lakes dated 1/8/2007 and other maps provided by the City. This illustrations are believed to be reasonably accurate for the purposes of showing the position of the proposed development relative to the airport and the depicted protected zones, but its accuracy is not guaranteed.

<sup>22</sup> 7/14/2008 telcon with Sergey Kireyev, Airspace and Land Use Manager, FDOT Aviation Office.

<sup>23</sup> *See Land Use Compatibility and Airports* pg. V-38 (FAA Southern Region Airports Division 1998).

<sup>24</sup> *Id.*

<sup>25</sup> California Airport Land Use Planning Handbook Pg. F-4 Exhibit F-3 Departure Accidents, Normalized Appendix F General Aviation Aircraft Accident Location Patterns (Stated of California, Dept. of Transportation, Division of Aeronautics 1/2002).

<sup>26</sup> *See Land Use Compatibility and Airports* pg. V-38 (FAA Southern Region Airports Division 1998).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* pg. V-39.

- <sup>29</sup> Id. pg. V-38.
- <sup>30</sup> Per R. Walker during the 4/29/08 airport users meeting, the FAA has determined that the Rwy. 20 Departure RPZ is anchored at the end of the concrete, not at the displaced threshold, as is incorrectly depicted in the New Smyrna Beach Municipal Airport Master Plan Update Airport Plans Dwg. 7 (1/2005).
- <sup>31</sup> FAA AC 150/5300-13 Airport Design §212. pg. 13 (9/29/1989).
- <sup>32</sup> Id. §212.a.(2)(b) pg. 13.
- <sup>33</sup> Id. §212.a.(2)(a) pg. 13.
- <sup>34</sup> Id. pg. ii. *See also* Bart Varnace's (FAA Orlando, Ass't. Manager) 3/19/2008 letter stating the RPZ standard is a requirement if the City has zoning jurisdiction over the land.
- <sup>35</sup> 7/14/2008 telcon with Sergey Kireyev, Airspace and Land Use Manager, FDOT Aviation Office.
- <sup>36</sup> FS Stat. 333.03(2)(d) Protected Zone (2007).
- <sup>37</sup> *See* James Wickstrom 3/4/07 e-mail.
- <sup>38</sup> Fla. Stat. 333.03(3) (2007).
- <sup>39</sup> Id.
- <sup>40</sup> *See, e.g.* Objections, Recommendations and Comments pgs. 5, 6 (DCA 7/27/2007).
- <sup>41</sup> *See, e.g.* James Wickstrom 3/4/07 e-mail.
- <sup>42</sup> AAB resolution adopted 4/14/2007.
- <sup>43</sup> *See, e.g.*, Bill Dunn, AOPA Vice-President-Airports correspondence of 12/21/2007 *and* 2/21/2008.
- <sup>44</sup> *See, e.g.*, Friends Of New Smyrna Beach Airport, Inc. correspondence of 1/2/2008 *and* 2/7/2008.
- <sup>45</sup> *See* Department of Community Affairs Objections, Recommendations and Comments for the City of New Smyrna Beach Amendment 07-1 (7/27/2007), pg. 5 ¶5 – pg. 6 ¶ 2.
- <sup>46</sup> 2/11/08 and 5/27/08 telcons with James Stansbury (DCA).
- <sup>47</sup> Minutes of the Airport Advisory Board Meeting Held Monday, April 14<sup>th</sup>, 2008 at 7:00 PM pg. 4.
- <sup>48</sup> *See* Assurances – Airport Sponsors (3/2005) ¶21.
- <sup>49</sup> *See* Quitclaim Deed Par. 10. (1) (4 /10/1947).