

Ordinance O20140006 amending the Airport Environs Overlay (SCC 14.16.210)

Whereas RCW 36.70A.510 and RCW 36.70.547 require the County, through its comprehensive plan and development regulations, to discourage the siting of incompatible uses adjacent to general aviation airports;

Whereas, on January 10, 2014, the Port of Skagit adopted Resolution 14-01 requesting that Skagit County adopt a new AEO map and update regulations to be consistent with the 2011 Washington State Department of Transportation (WSDOT) Airport and Compatible Land-Use Program Guidebook, and adopt additional industrial land use designations between the airport and existing residential development;

Whereas, on March 18, 2014, the Board of County Commissioners directed the Planning & Development Services Department by motion to prepare a plan to reconfigure the Bayview Ridge Subarea to implement the Port of Skagit's recommended changes to the Airport Environs Overlay, move industrial zoning to the eastern portion of the subarea, reduce the residential zoning, and shrink the urban growth area boundary;

Whereas, on June 18, 2014, the County held a formal consultation meeting with WSDOT Aviation Division and airport users and operators to discuss the proposed changes to the Bayview Ridge Subarea Plan and AEO;

Whereas, on September 4, 2014, the Planning Department released proposed comprehensive plan amendments and development regulation amendments that included:

1. Comprehensive Plan map redesignation of parcel P21180 (approximately 2.65 acres) from Rural Reserve to Small-Scale Business;
2. Amendments to the Bayview Ridge Subarea Plan to replace undeveloped residential designations with light industrial, eliminate the community center zone, change some existing light industrial to a new AVR-L designation, and downsize the urban growth area boundary, designating lands outside the UGA as Rural Reserve;
3. Amendments to the Bayview Ridge development regulations (SCC chapters 14.16 and 14.18) to be consistent with the modifications to the Subarea Plan;
4. Amendments to the Airport Environs Overlay (SCC 14.16.210).

Whereas, on September 4, 2014, the County released Notices of Availability and published legal notices in the Skagit Valley Herald of the proposed comprehensive plan and development regulations changes;

Whereas the County mailed notification postcards to landowners within the boundaries of the existing Bayview Ridge subarea and proposed airport environs overlay zone;

Whereas the County accepted written comments between September 4 and October 9;

Whereas, on October 7, 2014, the Planning Commission held a public hearing on the entire package of proposed amendments;

Whereas, on November 4, 2014, the Planning Commission approved its Recorded Motion (included in Ordinance O20140005 as Attachment 1) recommending approval of the amendments to the Airport Environs Overlay;

Whereas, on November 10, 2014, the Board of County Commissioners reviewed the Planning Commission's Recorded Motion and deliberated on the public comments and the proposal;

Whereas in the interests of administrative efficiency the Board is adopting the revisions to the Comprehensive Plan and Bayview Ridge development regulations as a separate ordinance (Ordinance O20140005);

Now Therefore, Be It Ordained by the Board of County Commissioners that:

Section 1. SCC 14.16.210, Airport Environs Overlay (AEO), is amended to read as shown in Attachment 1.

Section 2. The Airport Environs Overlay Map is adopted as shown in Attachment 2.

Section 3. The AEO Building Heights Restriction Contours Map is adopted as shown in Attachment 3.

Section 4. The AEO FAA Aeronautical Review Map is adopted as shown in Attachment 4.

Section 5. The AEO Notice & Acknowledgement Form is adopted as shown in Attachment 5.

Section 6. The AEO Avigation Easement Form is adopted as shown in Attachment 6.

Section 7. The AEO Notice, Acknowledgement, and Waiver Form is adopted as shown in Attachment 7.

Witness Our Hands and the Official Seal of Our Office this 17th day of November, 2014.

**Board of County Commissioners
Skagit County, Washington**

Ron Wesen, Chair

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon, Commissioner

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office

APPROVED AS TO CONTENT:

Dale Pernula, Director
Planning & Development Services

Attachment 1 — Revised 14.16.210 Airport Environs Overlay (AEO)

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14.16.210 Airport Environs Overlay (AEO)

- (1) Overview.
 - (a) Background.
 - (i) Skagit Regional Airport is an essential public facility as designated in the Skagit County Comprehensive Plan, provides an important transportation service to the region, and is a vital asset to facilitate economic growth in the County.
 - (ii) Skagit Regional Airport has been operated for general aviation and commercial purposes by local municipal governments since the 1950s when it was acquired from the federal government. The Port of Skagit has owned and operated the airport since 1965 and asserts that it has obtained avigation easements by prescription over property surrounding the Skagit Regional Airport.
 - (iii) State law requires the County to protect public use airports from incompatible land uses through comprehensive planning and development regulations (RCW 36.70.547 and 36.70A.510).
 - (iv) In 1999, the Washington State Department of Transportation (WSDOT), Aviation Division, adopted guidelines that provided technical information and policy recommendations regarding airport land use compatibility. Skagit County used that document, together with information from the California State Department of Transportation Airport Land Use Planning Handbook (1993), and information specific to the Skagit Regional Airport, to prepare the Skagit Regional Airport Land Use Compatibility Study (May 2000) that was the basis for the first version of this Airport Environs Overlay code. In 2011, WSDOT issued an updated Airports and Compatible Land Use Guidebook. The 2011 guidance recommends additional compatibility criteria within six Compatibility Zones surrounding the airport.
 - (v) Where airport operations exist side-by-side with other development, or where low-flying air traffic overflies other development, airport operations

are frequently the subject of nuisance complaints. As a result, some airports have been forced to cease or curtail operations. As an essential public facility, reduction or curtailment of service at Skagit Regional Airport is contrary to the public interest and the requirements of the Growth Management Act.

- (b) Policy. The policy of Skagit County is to:
 - (i) protect the long-term viability of Skagit Regional Airport; and
 - (ii) promote land uses compatible with the airport within the airport's designated environs.
 - (c) Purpose. The purpose of this section is to:
 - (i) Reduce any loss of airport operations by limiting and defining the circumstances under which Skagit Regional Airport may be considered a nuisance.
 - (ii) Require title notices and avigation easements that recognize that property in proximity to the airport is subject to overflight effects, e.g. noise, exhaust fumes, illumination, smoke, vibration, and loss of quiet enjoyment due to aircraft overflights associated with landing and taking off.
 - (iii) Help property purchasers and users understand the impact of living or owning a business near Skagit Regional Airport, and the conditions associated with their location.
 - (iv) Protect public health, safety, and general welfare within the airport environs.
- (2) Applicability.
- (a) Designation of Airport Environs.
 - (i) For purposes of this Section, the airport environs is that geographic area affected by the airport and defined based on factors including, but not limited to, aircraft noise, aircraft flight patterns, local circulation patterns, and area development plans, and is based on the WSDOT 2011 Airport and Compatible Land-Use Program Guidebook's airport compatibility zones.
 - (ii) The boundaries of the Airport Environs Overlay ("AEO") zone and the six Airport Compatibility Zones ("ACZ") are depicted on the adopted Skagit County Airport Environs Overlay map available at Skagit County Planning and Development Services and on the County website.
 - (b) Generally. This section applies to any of the following that lies wholly or partially within the airport environs:
 - (i) New buildings, structures, subdivisions, binding site plans, or land uses and their associated permits or approvals;
 - (ii) Outdoor activities involving human use or assembly, including but not limited to:
 - (A) open storage areas, roofed or unroofed, separate or adjoining another structure; and
 - (B) parks, playgrounds, and playing fields.

- (iii) Vegetation.
 - (c) Exemptions. The following uses are exempt from the requirements of this section:
 - (i) Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in an area of existing development where the shielded structure will not adversely affect safety in air navigation;
 - (ii) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA-approved siting criteria, the location and height of which are fixed by its functional purpose;
 - (iii) Any construction or alteration for which notice is required by any other FAA regulation.
 - (iv) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.
 - (v) Other uses as determined by the Administrative Official to be minor or incidental and within the intent or objective of these regulations.
 - (d) Existing Uses. Uses lawfully existing on the effective date of the ordinance adopting this Section are not required to change operations to comply with these regulations but may not be changed as to result in a greater degree of nonconformity with respect to these regulations, except that existing schools are allowed to expand.
- (3) Compatibility requirements.
- (a) Prohibited Uses. The following land uses are prohibited in all airport compatibility zones:
 - (i) Public and institutional uses, including hospitals, nursing homes, K-12 schools, stadiums, and any other land use where the people occupying the space have limited ability to move out of harm's way in a safe and rapid manner.
 - (ii) Aboveground bulk storage of flammable or hazardous materials that are not incidental to the permitted use.
 - (iii) Manufactured home parks.

- (b) Additional compatibility-zone-specific restrictions. To protect the safety of both pilots and people on the ground in the event of an airplane crash, uses within the Airport Compatibility Zones are subject to the restrictions shown in the following table in addition to the restrictions imposed by the applicable zoning districts. Required open space must be maintained as vegetation not more than four feet in height, mowed lawn, or pavement.

ACZ	Additional Use Restrictions	Max Building Size	Required Open Space
1	No new structures or uses allowed (except aviation-related Port uses).	n/a	100%, except airport structures
2	No multi-family dwellings, accessory dwelling units, temporary manufactured homes, day care, co-housing, churches, or bed and breakfasts allowed.	13,000 sq ft and max one building per acre, except aircraft hangars.	30%
3S	n/a	13,000 sq ft and max one building per acre, except aircraft hangars.	15%
3L	No accessory dwelling units, temporary manufactured homes, co-housing, or bed and breakfasts allowed.	13,000 sq ft and max one building per acre, except aircraft hangars.	15%
4S	n/a	100,000 sq ft	10%
4L	n/a	100,000 sq ft	10%
5	n/a	30,000 sq ft	30%
6	Public and institutional uses (including churches) may not exceed a density of 100 people/acre.	n/a	10%

(c) Other Compatibility Requirements.

- (i) Trees. The owner of any tree that grows tall enough to impede the height restriction contours as depicted on the AEO Building Heights Restriction map must permit the maintenance or removal of the tree by the Port of Skagit to prevent hazards to air navigation.
- (ii) Exhaust plumes.
- (A) Background. Heated exhaust plumes can originate from any number of sources, including but not limited to chimneys, elevated smoke stacks at power generating stations, boilers, smelters, combustion sources, and flares created by an instantaneous release from a pressurized gas system. When exhaust plumes have significant vertical exit velocities, they may cause damage to an aircraft airframe, or upset an aircraft

when flying at low levels, such as during approach, landing, and take off operations. The FAA is currently developing guidance on the hazard of thermal plumes surrounding airports. Australian aviation authorities have studied exhaust plumes near airports and determined that gusts in excess of 4.3 m/s present a hazard to aviation.

(B) Requirement.

(i) Any proposal that includes construction or alteration of a significant exhaust-producing element must provide to the County and Port of Skagit an assessment of the vertical velocity of the exiting exhaust using a recognized plume rise equation or equivalent source testing.

(ii) When results indicate that a vertical exhaust plume will exceed 4.3 m/s velocity at the height of the corresponding height restriction contour as depicted on the AEO Building Heights Restriction map, the project proponent must evaluate mitigating design measures in consultation with the County and Port of Skagit.

(iii) Stormwater management features, including stormwater detention or retention ponds, must be designed in accordance with the WSDOT Airport Stormwater Guidance Manual, except that mandatory provisions of SCC Chapter 14.32 control over conflicting provisions of the WSDOT manual.

(iv) Solar panels.

(A) Solar panels can have varying degrees of reflectivity depending on the type of solar technology used. Reflectivity can cause glint and glare to pilots, which can cause a brief loss of vision constituting a hazard to air navigation.

(B) Solar panels must be constructed with an anti-reflective layer to reduce glare.

(d) Height.

(i) Background.

(A) Obstructions as defined by Section 77.23 of the Federal Aviation Regulations ("FAR") may create electrical interference with navigational signals or radio communication between the airport and aircraft; make it difficult for pilots to distinguish between airport lights and others; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport; create turbulence in the vicinity of the airport; create bird strike hazards; or otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(B) The purpose of aeronautical review is to determine whether the proposed construction or alteration creates a hazard to air navigation, to allow the Federal Aviation Administration ("FAA") to make recommendations to avoid or minimize new hazards to air navigation,

and to allow the FAA to notify the aviation community of any project that would affect the navigable airspace (FAR 77.5).

- (C) The AEO Building Heights Restriction Contours Map shows contours that describe an imaginary plane as defined by Section 77.25 of the Federal Aviation Regulations minus the underlying ground elevations.
- (D) The AEO FAA Aeronautical Review Map shows contours that indicate when a building height triggers FAA review.

(ii) Requirements.

- (A) Development may not impede the contours shown on the AEO Building Heights Restriction Contours Map.
- (B) Development that impedes the contours shown on the AEO FAA Aeronautical Review Map must submit a Notice of Proposed Construction or Alteration (FAA Form 7460-1 or its successor) to the FAA at least 45 days before the proposed start date of the proposed construction or alteration.

(4) Port of Skagit review.

The Department must provide an opportunity for the Port of Skagit to review and comment for any development application. The Department must wait at least ten days for the Port's comments before approving the application. This paragraph gives no authority to the Port of Skagit to require changes to the application.

(5) Required Avigation Easement and Title Notice.

- (a) The Department may not issue any permit on property other than that owned by the Port of Skagit unless the documents indicated below are recorded in the chain of title for the underlying property:
 - (i) in ACZ 1 and 3-6:
 - (A) an avigation easement in favor of the Port of Skagit; and
 - (B) a notice and acknowledgement of airport and aircraft operations.
 - (ii) in ACZ 2:
 - (A) an avigation easement in favor of the Port of Skagit; and
 - (B) a notice and acknowledgement of airport and aircraft operations and a waiver of claims.
- (b) The required recordings must be in forms substantially similar to that attached to Ordinance O20140006 and must include complete exhibits. Forms for this purpose are available from the Department.

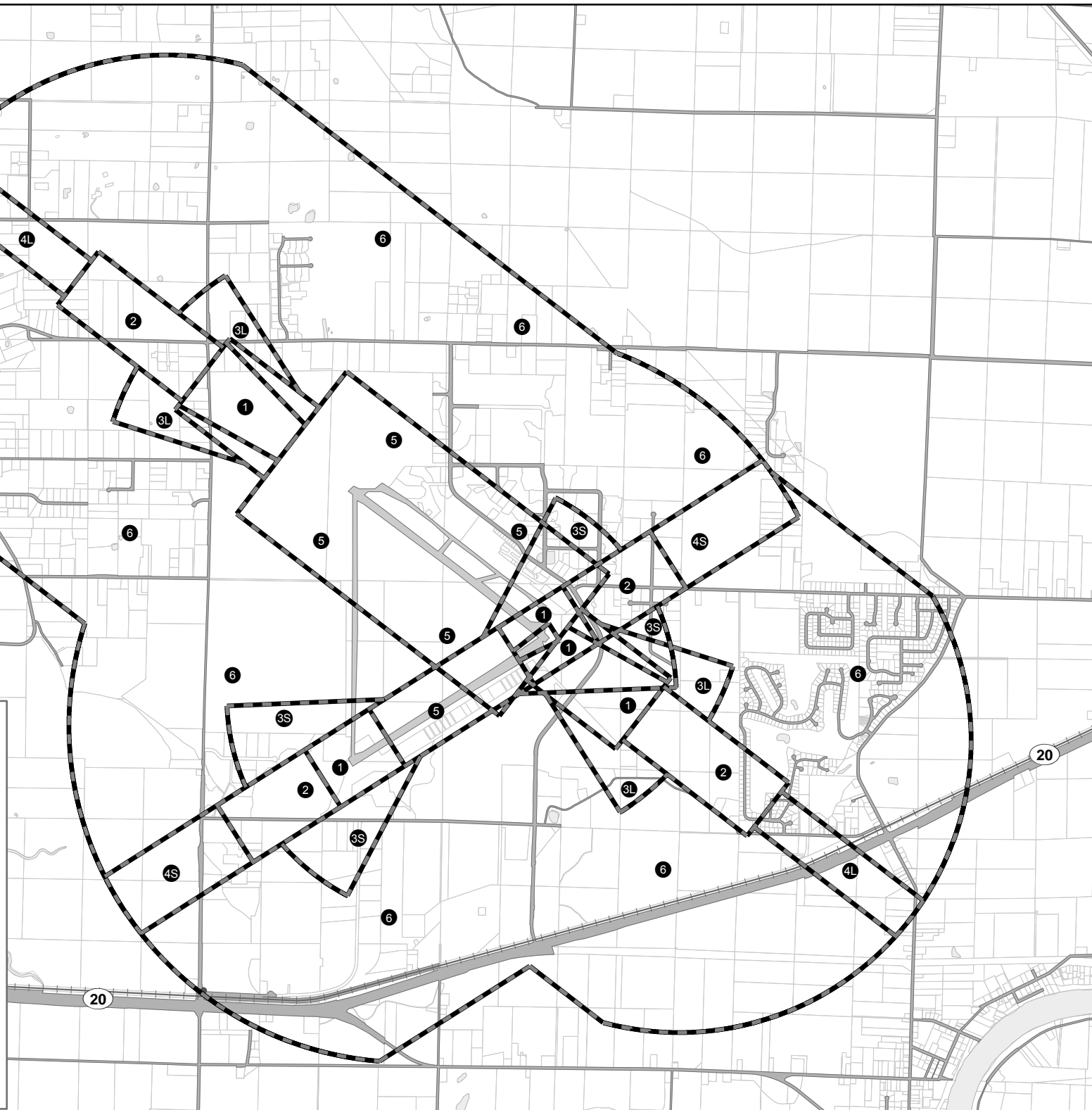
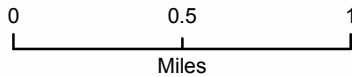
Attachment 2 — Airport Environs Overlay Map

Airport Environs Overlay

 Airport Compatibility Zones

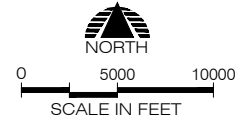
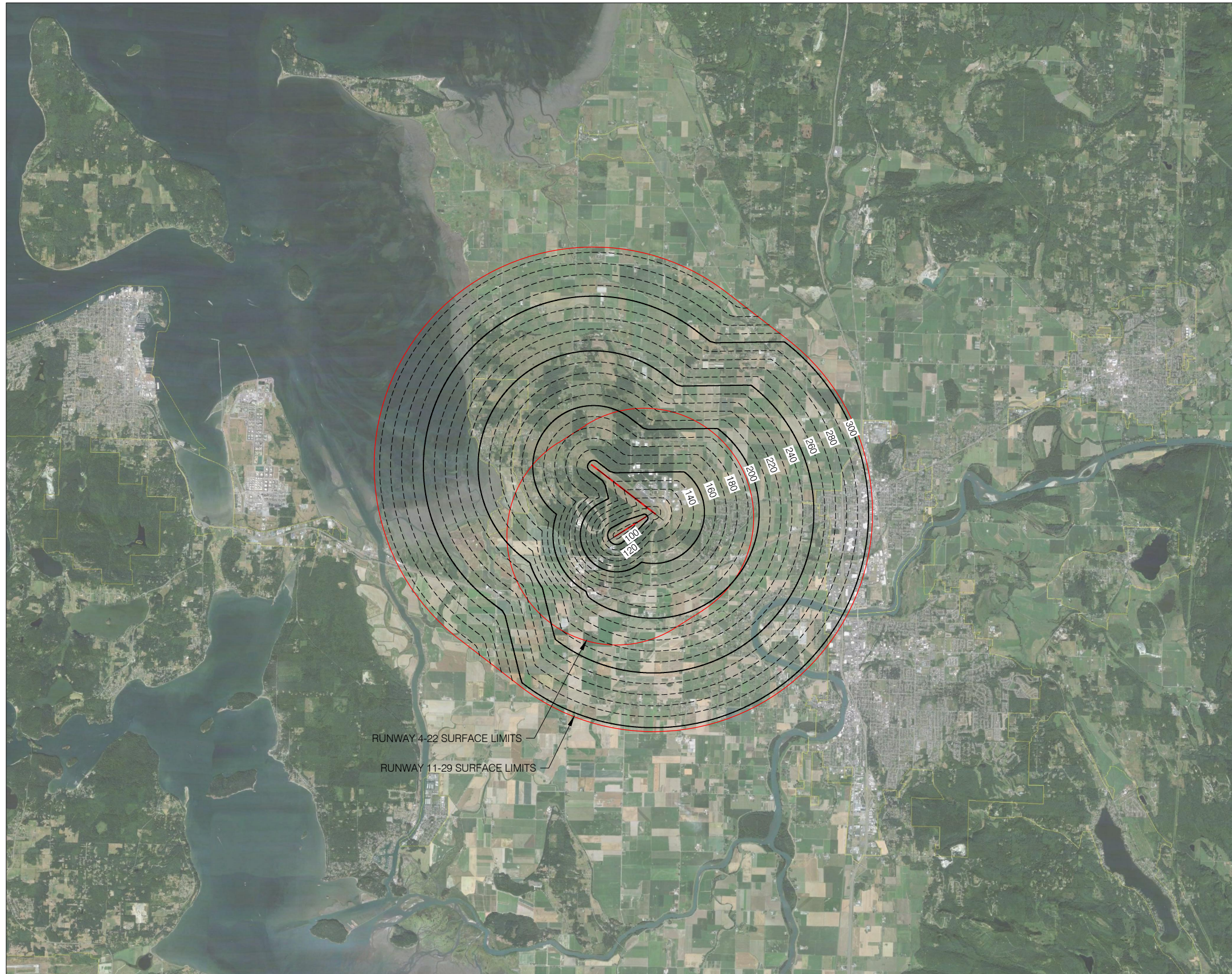


November 17, 2014



**Attachment 3 — AEO Building Heights Restriction Contours
Map**

05/14/14 - 2:41pm - iwade - P:\PSC000-CLIENT\040CAD\DWG\Part-7\EXH-Part77-2014-Alteration.dwg



SURFACE FOR DETERMINING IF CONSTRUCTION OR ALTERATION REQUIRES NOTICE TO FAA (14 CFR 77.9)	RUNWAY 11-29	RUNWAY 4-22
	DISTANCE	20000'
SLOPE	100:1	50:1

RUNWAY 4-22 SURFACE LIMITS

RUNWAY 11-29 SURFACE LIMITS

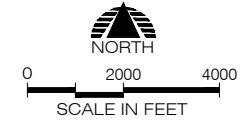
PORT OF SKAGIT
FAA 14 CFR PART 77 UPDATE

CIVIL AIRPORT IMAGINARY SURFACES

HEIGHT LIMITS OF CONSTRUCTION OR ALTERATION REQUIRING NOTICE (CFR 77.9) MAY 13, 2014



Attachment 4 — AEO FAA Aeronautical Review Map



LEGEND

- FAA PART 77 SURFACE ELEVATION CONTOUR (100' INTERVAL)
- - - - - FAA PART 77 SURFACE ELEVATION CONTOUR (20' INTERVAL)
- FAA PART 77 SURFACE BOUNDARY

HORIZONTAL DATUM: NAD 83/07 WASHINGTON STATE PLAN NORTH ZONE
 (COORDINATES USED ARE GROUND COORDINATES
 IN US SURVEY FEET. TO CONVERT BACK TO STATE
 PLANE GRID COORDINATES MULTIPLY BY A
 COMBINED SCALE FACTOR OF 0.99995957

VERTICAL DATUM: NAVD 88

BENCH MARK: WSDOT PID #2477 "SKAGIT AIR"

PORT OF SKAGIT
 FAA 14 CFR PART 77 UPDATE

**CIVIL AIRPORT
 IMAGINARY SURFACES**

ELEVATIONS



Attachment 5 — Notice & Acknowledgement Form

AFTER RECORDING, RETURN TO:

**NOTICE AND ACKNOWLEDGEMENT
AIRPORT AND AIRCRAFT OPERATIONS AND NOISE DISCLOSURE
SKAGIT REGIONAL AIRPORT ENVIRONS**

Permit Number: _____

Property I.D. No.: _____

Assessor Tax No.: _____

Property Owner(s): _____

Property Legal Description:

Property Address/Location: _____

Comp Plan/Zoning Designation: _____

NOTICE

The above referenced property is located within the Airport Environs Overlay Zone and is included in a mapped airport-impacted area in the vicinity of the Skagit Regional Airport (and depicted in Exhibits A, B & C, attached hereto). Skagit Regional Airport has been identified in the Skagit County Comprehensive Plan as an Essential Public Facility pursuant to Chapter 36.70A RCW (Washington Growth Management Act). It is the policy of Skagit County to support the continued use of Skagit Regional Airport, including its future accommodation of both increased aircraft traffic and utilization of aircraft of the class, size and category as is

now or may hereafter be operationally compatible with the Skagit Regional Airport. The Port of Skagit County, which owns and operates Skagit Regional Airport, claims to have acquired through prescriptive avigation easements the right to operate Skagit Regional Airport with the attendant impacts of low flying aircraft over, near and upon those properties identified in Exhibit A attached hereto.

The Skagit Regional Airport is an aviation facility and is depicted on the maps attached as Exhibits A, B and C. The property subject to this notice will routinely experience the effects of low flying aircraft. As a result, the subject property will experience aircraft noise, exhaust fumes, vibration, glare and invasion of quiet enjoyment resulting from propeller-driven and jet aircraft. The airport noise contours for the immediate vicinity of the Skagit Regional Airport have been identified for traffic volumes (Exhibit "B") and forecasted future traffic volumes (Exhibit "C"). The contours and the level of noise received by properties in the vicinity of Skagit Regional Airport will change in the future and impacts to property occupants may increase.

More specific information regarding airport operation and aircraft noise can be obtained by contacting the Port of Skagit County, Skagit Regional Airport, Operations Office.

This notice conveys actual and constructive knowledge to any person or entity acquiring, obtaining, or holding a real property interest or right of occupancy in or on the subject property.

ACKNOWLEDGEMENT

I, _____, the owner or occupant of the referenced property, hereby acknowledge that I have read and understand the NOTICE provided above. I understand that this NOTICE AND ACKNOWLEDGEMENT will be recorded with the Skagit County Auditor.

The Auditor will convey notice of its contents to all persons or entities acquiring or obtaining an interest or right of occupancy in or on the subject property. I have freely executed this ACKNOWLEDGEMENT as a condition of approval for permit/subdivision/binding site plat application number _____, as required by SCC 14.16.210(6).

Dated the _____ day of _____, 20__.

By _____
Owner

Printed Name

By _____
Owner

Printed Name

(ACKNOWLEDGEMENT FOR INDIVIDUAL GRANTOR)

STATE OF WASHINGTON)

:ss

COUNTY OF _____)

On this _____ day of _____, 20____, before me, personally appeared _____, to me known to be the individual described in and who executed the within instrument and acknowledged he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes herein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(signature)

(print name)

NOTARY PUBLIC in and for the State of Washington,

residing at _____

My appointment expires: _____

(ACKNOWLEDGEMENT FOR CORPORATE GRANTOR)

STATE OF WASHINGTON)

:SS

COUNTY OF SKAGIT)

On this _____ day of _____, 20____, before me personally appeared _____ and _____ to me known to be the President and Secretary, respectively, of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(signature)

(print name)

NOTARY PUBLIC in and for the State of Washington,
residing at

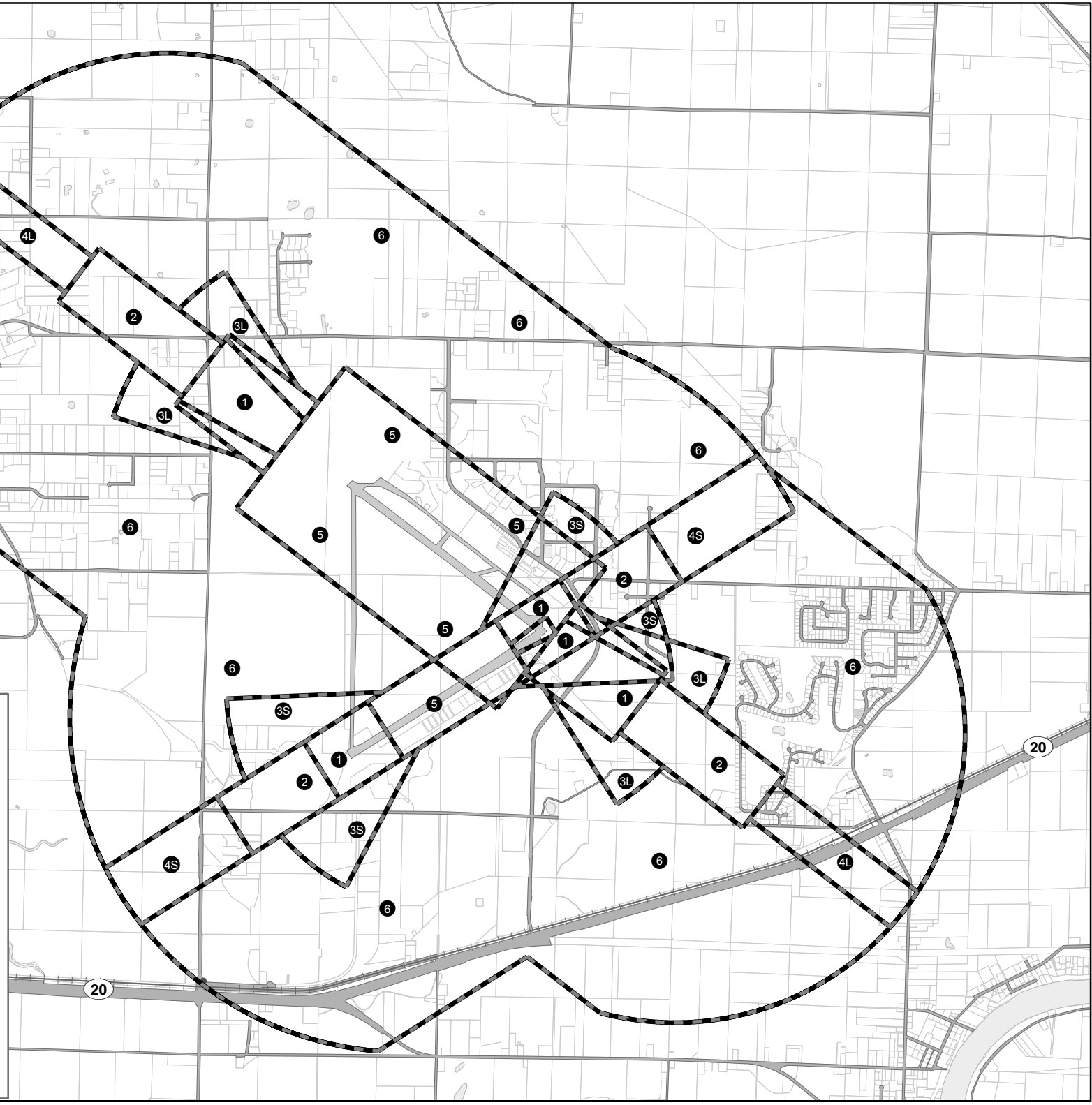
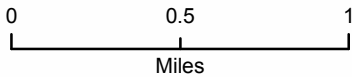
My appointment expires: _____

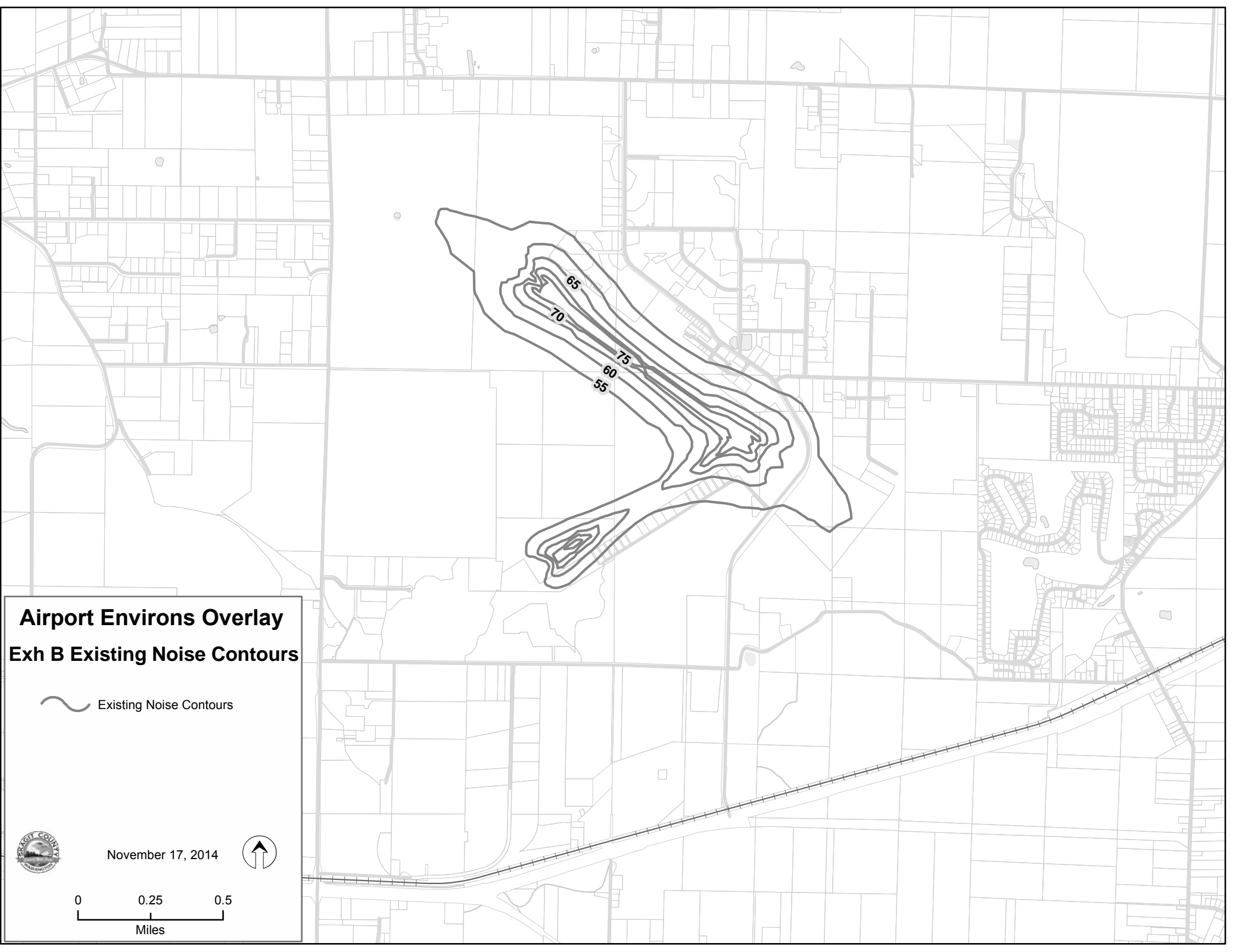
Exh A Airport Environs Overlay

 Airport Compatibility Zones




November 17, 2014



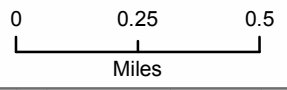


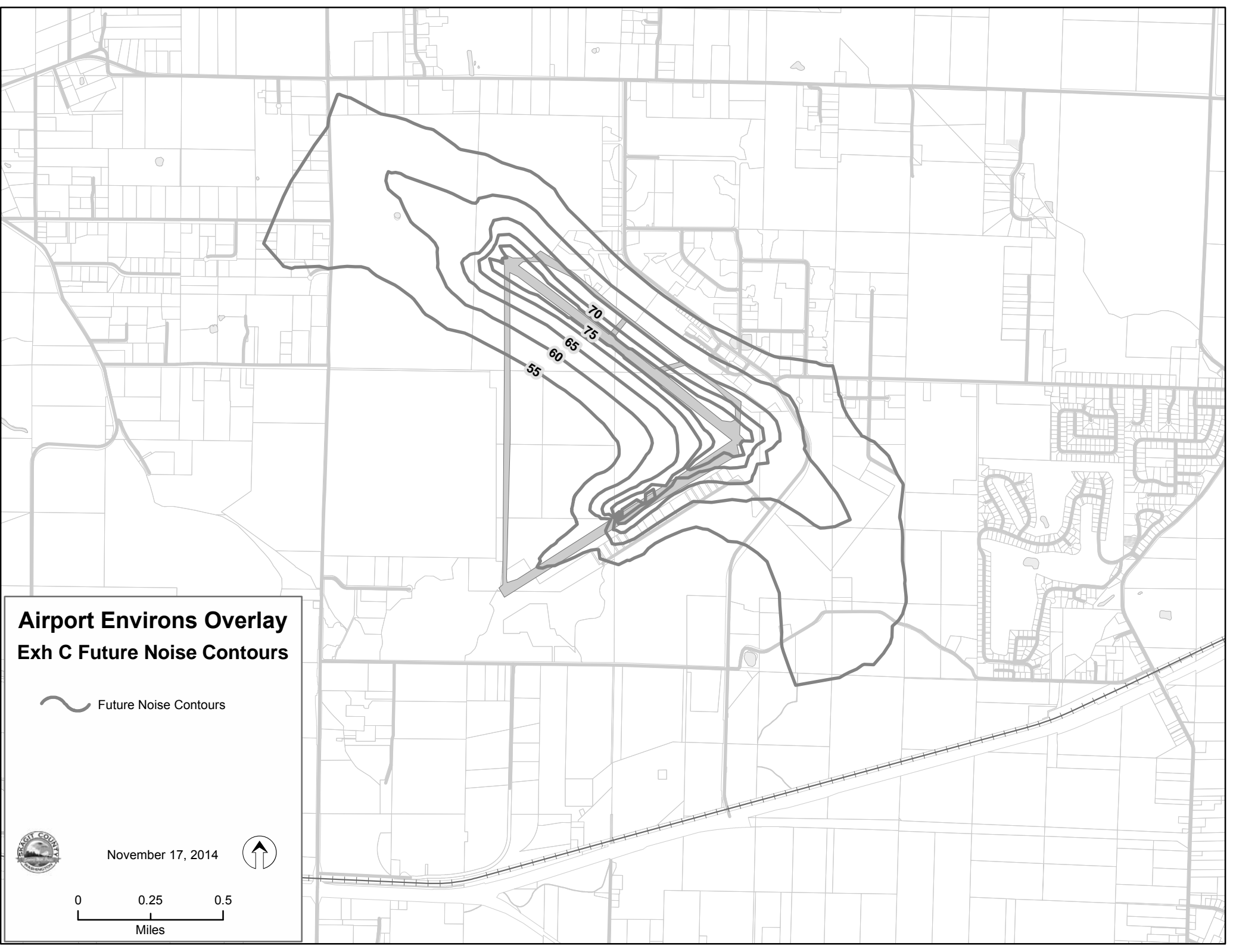
Airport Environs Overlay Exh B Existing Noise Contours

 Existing Noise Contours




November 17, 2014





Airport Environs Overlay Exh C Future Noise Contours

 Future Noise Contours



November 17, 2014



0 0.25 0.5
Miles

Attachment 6 — Avigation Easement Form

After recording return document to:

Document Title: **Avigation Easement** _____

Reference Number of Related Document: _____

Grantor(s): _____

Additional Grantor(s) on page ____ of document.

Grantee(s): **Port of Skagit County** _____

Additional Grantee(s) on page ____ of document.

Abbreviated legal description: _____

Additional legal description(s) o page(s) ____ of document.

Assessor's tax/parcel numbers: _____

AVIGATION EASEMENT

This easement made this ____ day of _____, _____ between _____ (hereafter “Grantor”), and the Port of Skagit County, a municipal corporation within the County of Skagit of the State of Washington (hereafter “Grantee”), provides that:

RECITALS

The parties hereto acknowledge the following:

- A. Grantor owns certain real property in Skagit County, Washington, described on Exhibit A and depicted on Exhibit B (the “Property”). All exhibits mentioned herein and attached hereto are incorporated herein as if set forth in full.
- B. Grantee is the owner and operator of the Skagit Regional Airport (“Airport”), an identified essential public facility pursuant to the Washington Growth Management Act, Chapter 36.70A RCW. The Airport is operated pursuant to federal law and Title 53 RCW and RCW 36.70A.510 and RCW 36.70.547 and legally described in Exhibit C and depicted in Exhibit D hereto.
- C. The Airport is the principal airport in Skagit County, serving both recreational and commercial aircraft, including freight and passenger carriers. The Airport represents a public asset currently valued at over \$132,230,000.00. The Airport provides an essential transportation service and facilitates economic growth in Skagit County.
- D. Skagit County has identified undeveloped property in the vicinity of the Airport as part of an Urban Growth Area in which urban development is planned to occur. Unless carefully managed, urban development in the vicinity of airports leads to incompatible uses. Persons owning or occupying property within the vicinity of airports experience noise, exhaust fumes, illumination, smoke, vibration and loss of quiet enjoyment due to aircraft overflights associated with landing and taking off (“Overflight Effects”). In response to Overflight Effects, some persons are prone to assert legal claims or to exert other pressures to limit or terminate airport operations. The occurrence of urban development in the vicinity of the Airport therefore could, unless mitigated, have a harmful effect on Airport operations, limit the usefulness of an essential public facility and be contrary to the public interest and the requirements of the Growth Management Act.
- E. Portions of the Property lie within the Skagit Regional Airport Safety Overlay Zones established by the Washington State Department of Transportation’s Aviation Division as set forth in Airport Land Use Compatibility Study, prepared by Reid Middleton and published in 2000 and on file with Skagit County. Portions of the Property also lie within certain aircraft noise contours established in the Airport Maser Plan, 1995, prepared by W & H Pacific and on file at the Port of Skagit County. These zones and contours are depicted on maps comprising a portion of the Skagit County UDC Airport Environs Overlay Map Portfolio.

- F. The Property has been continuously subject to aircraft overflights, either directly above the Property or over adjacent properties for an uninterrupted period in excess of ten years. These overflights, known to Grantor and/or Grantor's predecessors, by aircraft either landing at or taking off from the Skagit Regional Airport have subjected the Property to Overflight Effects. Grantee has not sought, nor has either Grantor nor Grantor's predecessors granted, permission to operate the Airport or to cause Overflight Effects upon the Property.
- G. The term "Average sound level" as used herein shall mean the level, in decibels, of the mean-square, A-weighted sound pressure during a specified period, with reference to the square of the standard reference sound pressure of 20 micropascals.
- H. The term "Day-night average sound level" or "DNL" as used herein shall mean the 24-hour Average Sound Level, in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between midnight and 7 a.m., and between 10 p.m., and midnight, local time.
- I. The Federal Aviation Administration has determined that noise from Overflight Effects is incompatible with ground uses when in excess of sixty-five (65) DNL.
- J. Urban Development in the vicinity of the Airport upon which noise from Overflight Effects is sixty-five 65 DNL or less poses minimal risk of harmful effects on the Airport.
- K. Pursuant to Section 14.16.210 of the Skagit County Code, Grantor must grant to Grantee an aviation easement for the portions of Grantor's real property within the Skagit Regional Airport Safety Overlay Zones,
- L. Grantor is willing to grant Grantee an easement with respect to Grantor's real property in accordance with the terms and conditions of this Agreement as a condition of development approval by Skagit County.

COVEYANCE OF EASEMENT

- 1. The GRANTOR for and in consideration of fulfillment of a condition of a Skagit County project approval, Skagit County permit number _____, does hereby grant to Grantee, its successors and assigns, a perpetual and assignable easement in, near, upon and over the Property (legally described in Exhibits "A" and "B") for the free and unrestricted passage and flight of aircraft of the class size and category as is now or hereinafter may be operationally compatible with the Skagit Regional Airport ("Aircraft"), across and about the airspace above an imaginary plane, as such plane is defined by Part 77 of the Federal Aviation Regulations, over or in the vicinity of the Property (the "Airspace").

Exhibit A
(Legal Description)

Exhibit B
(Depiction)

Exhibit C
BAYVIEW AIRPORT—PERIMETER DESCRIPTION

Those portions of Sections 33 and 34, Township 35 North, Range 3 East, W.M., and of Sections 3, 4 and 10, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the intersection of the South line of the County Road along the North line of section 34, Township 35 North, Range 3 East, W. M., and the West line of said Section 34;

thence East, along said South line of the County Road, a distance of 208 feet;

thence South to a point 300 feet North of the South line of the North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 34;

thence East, along a line which is 300 feet North of said South line, a distance of 291 feet to the East line of the West 499 feet of the North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 34;

thence South, along the East line of said West 499 feet, a distance of 300 feet to the South line of said North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of said Section 34;

thence East, along said South line, to the East line of the Northwest $\frac{1}{4}$ of said Section 34;

thence South, along said East line, to the center of said Section 34;

thence East, along the East/West center line of said Section 34, to the East line of the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Section 34;

thence South, along said East line, and along the East line of the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of Section 3, Township 34 North, Range 3 East, W.M., to the North line of Ovenell Road;

thence West, along the North line of Ovenell Road, a distance of 100 feet;

thence Northwesterly to a point on the North line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 3 that is 150 feet West of the Northeast corner thereof;

thence West, along the North line of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ to the Northwest corner thereof;

thence South, along the North/South center line of said Section 3 and the North/South center line of Section 10, Township 34 North, Range 3 East, W.M., to the Southeast corner of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 10;

thence South $0^{\circ}21'30''$ West, along the East line of the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 10, a distance of 379.7 feet to the center of Higgins Slough;

thence South $83^{\circ}45'00''$ East, along the center of said slough, a distance of 56.1 feet;

thence South $77^{\circ}49'00''$ East a distance of 171.0 feet;

thence South $54^{\circ}30'00''$ East a distance of 67.0 feet;

thence South 46°17'30" East a distance of 479.0 feet to the Northerly line of the Great Northern Railway right-of-way;

thence South 73°20'30" West, along said Northerly line, to the North/South center line of said Section 10;

thence Southwesterly, along Northerly right-of-way line, to the East line of the West 687.7 feet, as measured along the North line, of the Southeast ¼ of the Northwest ¼ of said Section 10;

thence North, along said East line of the West 687.7 feet, to the North line of said Southeast ¼ of the Northwest ¼;

thence West, along the North line thereof, a distance of 687.7 feet to the Northwest corner thereof;

thence North, along the West line of the Northeast ¼ of the Northwest ¼ of said Section 10, to the North line thereof, which point is also the South line of Section 3, Township 34 North, Range 3 East, W.M.;

thence West, along the South line of Sections 3 and 4 of said Township 34 North, Range 3 East, W.M., to the Southwest corner of said Section 4;

thence North, along the West line of said Section 4, to the Southwest corner of a tract conveyed to PACCAR Inc., a Delaware corporation, by deed recorded December 21, 1979, under Auditor's File No. 7912210064, said point being South 1°18'41" West a distance of 746.70 feet from the West ¼ corner of said Section 4;

thence South 88°37'12" West, a distance of 3,139.05 feet, along the South line of said PACCAR, Inc. tract, to the Southeast corner thereof;

thence North 0°37'03" East, along the East line of said PACCAR, Inc tract, a distance of 3,159.99 feet;

thence North 88°39'12" West a distance of 120.01 feet;

thence North 0°37'13" East a distance of 320.36 feet to the North line of said Section 4;

thence North 88°37'12" West, along the North line of said Section 4, a distance of 2,601.20 feet to the Northwest corner of said Section 4;

thence North, along the West line of Section 33, Township 35 North, Range 3 East, W.M., to the North line of the South ½ of the North ½ of the North ½ of said Section 33;

thence East, along said North line, to the East line of said Section 33;

thence North, along said East line, to the point of beginning.

EXCEPTING THEREFROM those portions above described which lie within the rights-of-way of the County Roads known as Ovenell Road, Farm-to-Market Road, Josh Wilson Road, Peterson Road and Higgins Airport Way.

Situate in the County of Skagit, State of Washington

NOTE: A portion of the property described above has been included within a Binding Site Plan known as "SKAGIT REGIONAL, AIRPORT BINDING SITE PLAN PHASE 1", as approved August 22, 1986, and recorded August 25, 1986, in Volume 7 of Short Plats, pages 111 through 120, under Auditor's File No. 8608250002, records of Skagit County, Washington; being a portion of Section 34, Township 35 North, Range 3 East, W.M. END OF EXHIBIT C

EXHIBIT D

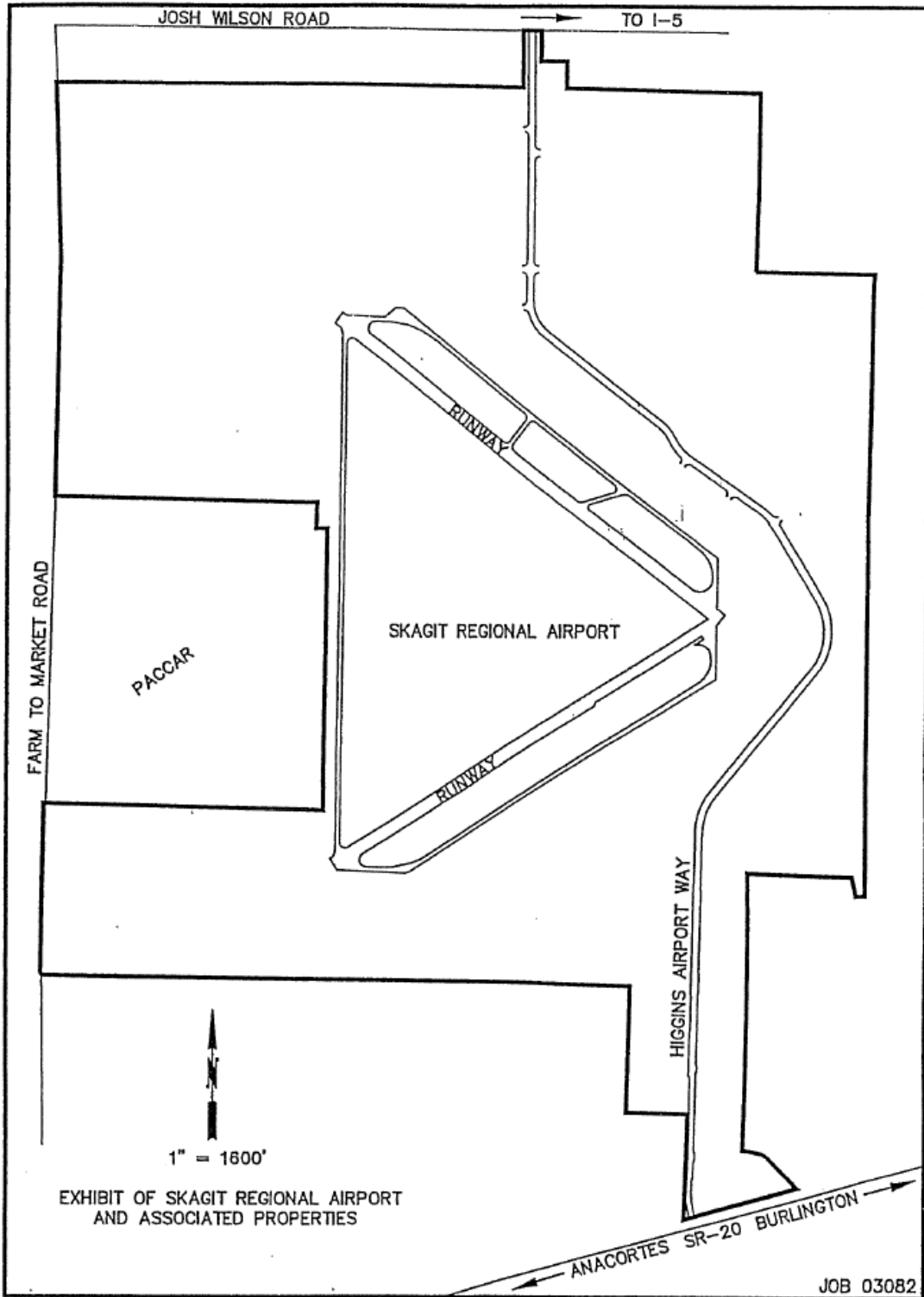


EXHIBIT OF SKAGIT REGIONAL AIRPORT
AND ASSOCIATED PROPERTIES

JOB 03082

**Attachment 7 —Notice, Acknowledgement, and Waiver Form
(including the maps for each)**

AFTER RECORDING, RETURN TO:

**NOTICE ACKNOWLEDGEMENT AND WAIVER
AIRPORT AND AIRCRAFT OPERATIONS AND NOISE DISCLOSURE
SKAGIT REGIONAL AIRPORT ENVIRONS**

Permit Number:

Property I.D. No.:

Assessor Tax No.:

Property Owner(s)

Property Legal Description:

Property Address/Location:

Comp Plan/Zoning Designation:

NOTICE

The above referenced property (“Subject Property”) is located within the Airport Environs Overlay Zone and is included in a mapped airport-impacted area in the vicinity of the Skagit Regional Airport (and depicted in Exhibits A, B & C, attached hereto). Skagit Regional Airport has been identified in the Skagit County Comprehensive Plan as an Essential Public Facility pursuant to Chapter 36.70A RCW (Washington Growth Management Act). It is the policy of Skagit County to support the continued use of Skagit Regional Airport, including its future accommodation of both increased aircraft traffic and utilization of aircraft of the class, size and category as are now or may hereafter be operationally compatible with the Skagit Regional Airport. The Port of Skagit County, which owns and operates Skagit Regional Airport, claims to have acquired through prescriptive avigation easements the right to operate Skagit Regional Airport with the attendant impacts of low-flying aircraft over, near and upon those properties identified in Exhibit A attached hereto.

The Skagit Regional Airport is an aviation facility and is depicted on the maps attached as Exhibits A, B and C. The Subject Property will routinely experience the effects of low-flying aircraft. As a result, the

Subject Property will experience aircraft noise, exhaust fumes, vibration, glare and invasion of quiet enjoyment resulting from propeller-driven and jet aircraft. The airport noise contours for the immediate vicinity of the Skagit Regional Airport have been identified for traffic volumes (Exhibit "B") and forecasted future traffic volumes (Exhibit "C"). The contours and the level of noise received by properties in the vicinity of Skagit Regional Airport will change in the future and impacts to property occupants may increase.

Additionally, the Subject Property is in Airport Compatibility Zone 2, in close proximity to the end of a runway at Skagit Regional Airport and therefore will experience the low altitude over-flight effects of aircraft landing and taking off from the airport. There is a risk that such an aircraft could accidentally crash into the Subject Property causing property damage to the Subject Property and/or injury and/or death to persons on the Subject Property from impact, fire or explosion.

More specific information regarding airport operation and aircraft noise can be obtained by contacting the Port of Skagit County, Skagit Regional Airport, Operations Office. This notice conveys actual and constructive knowledge to any person or entity acquiring or obtaining a real property interest or right of occupancy in or on the subject property.

ACKNOWLEDGEMENT AND WAIVER

I, _____, the owner of the referenced property, hereby acknowledge that I have read and understand the NOTICE provided above and that I waive for myself, my successors, heirs and executors and any person on or about the Subject Property or who has personal property thereon any and all claims against Skagit County and the Port of Skagit County for personal injury, death or property damage caused by aircraft impacting the Subject Property. I understand that this NOTICE ACKNOWLEDGEMENT AND WAIVER will be recorded with the Skagit County Auditor.

The Auditor will convey notice of its contents to all persons or entities acquiring or obtaining an interest or right to occupancy in or on the subject property. I have freely executed this ACKNOWLEDGEMENT AND WAIVER as a condition of approval for permit/subdivision/binding site plan application number _____, as required by SCC 14.16.210(8).

Dated the _____ day of _____, 20__.

By _____
Owner

By _____
Owner

Printed Name

Printed Name

(ACKNOWLEDGEMENT FOR INDIVIDUAL GRANTOR)

STATE OF WASHINGTON)

:ss

COUNTY OF _____)

On this _____ day of _____, 20____, before me, personally appeared _____, to me known to be the individual described in and who executed the within instrument and acknowledged he/she signed and sealed the same as his/her free and voluntary act and deed for the uses and purposes herein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(signature)

(print name)

NOTARY PUBLIC in and for the State of Washington,

residing at _____

My appointment expires: _____

(ACKNOWLEDGEMENT FOR CORPORATE GRANTOR)

STATE OF WASHINGTON)

:SS

COUNTY OF SKAGIT)

On this _____ day of _____, 20____, before me personally appeared _____ and _____ to me known to be the President and Secretary, respectively, of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written.

(signature)

(print name)

NOTARY PUBLIC in and for the State of Washington, residing at

My appointment expires: _____

Exh A Airport Environs Overlay

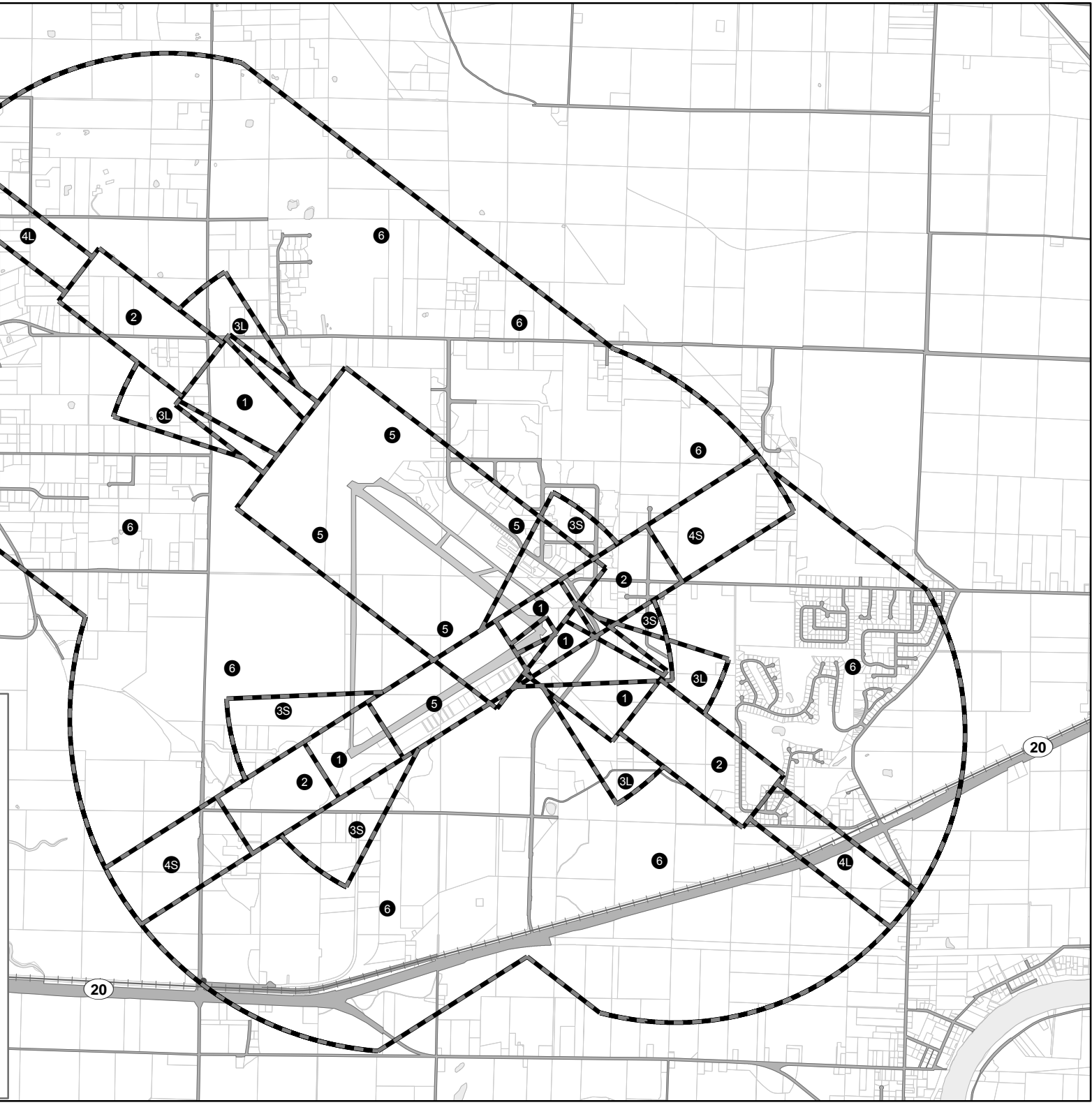
 Airport Compatibility Zones

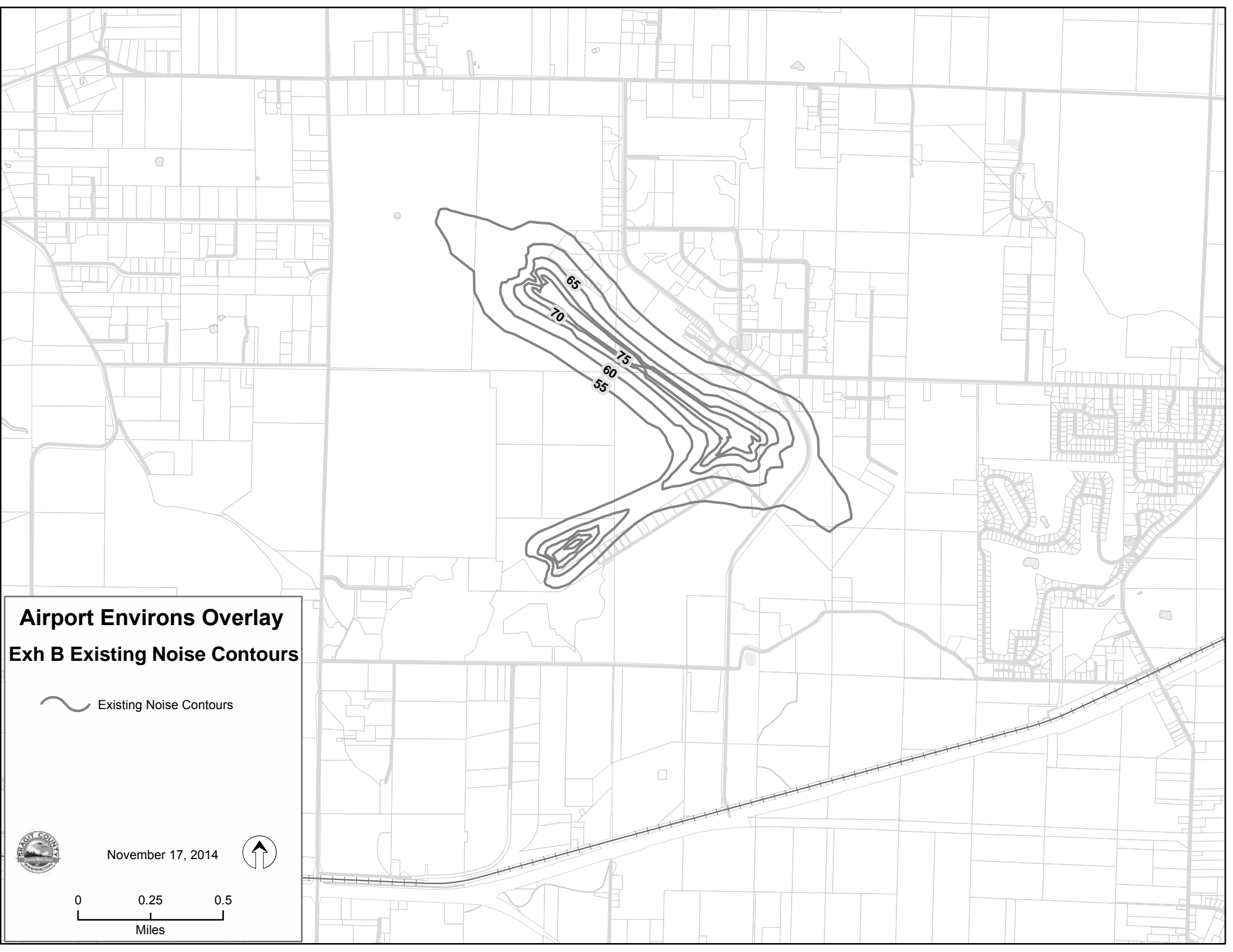


November 17, 2014



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Airport Environs Overlay

Exh B Existing Noise Contours

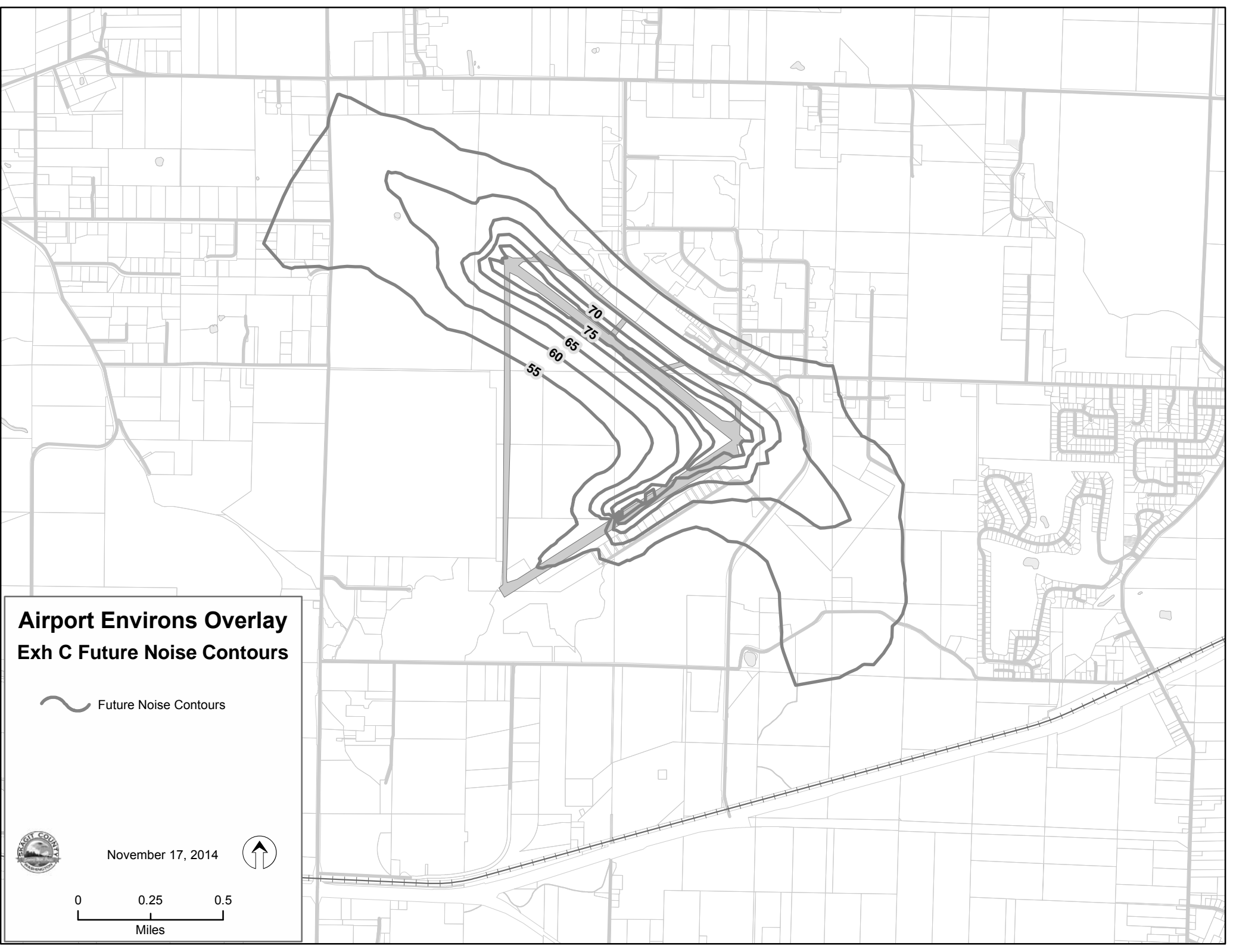
 Existing Noise Contours




November 17, 2014



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Airport Environs Overlay Exh C Future Noise Contours

 Future Noise Contours



November 17, 2014



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Miles