

# **REPORT**

**Of the**

**Airport Overlay District Ordinance Ad Hoc Committee**

**To the**

**Property, Airport, Recreation & Economic Development  
Committee**

**And the**

**Agricultural, Extension, Education, Zoning and Land  
Conservation Committee**

6/29/11  
(date)

## **Introduction**

Resolution 86-2009-10 created the Outagamie County Airport Overlay District Ordinance Ad Hoc Committee with a sunset date of 1 April 2010. Resolution 140-2009-10 extended the sunset date to 30 October 2010 and Resolution 95-2010-11 further extended the sunset date to 1 January 2012.

The charge to the Airport Overlay District (AOD) Ordinance Ad Hoc Committee (hereafter the "ad hoc committee") was to examine the AOD Ordinance, last revised in 1981, and to make recommendations to the Property, Airport, Recreation & Economic Development Committee (hereafter the "Property committee") and to the Agricultural, Extension, Education, Zoning and Land Conservation Committee (hereafter the "Zoning committee") to bring the AOD Ordinance up to date. This report contains those recommendations.

Prior to completing this report the Outagamie County Zoning Administrator met informally with local officials and affected property owners in the Towns of Menasha, Greenville, Clayton, and Grand Chute, and with zoning officials in Winnebago County. Their comments and suggestions have been incorporated into these recommendations. The ad hoc committee recognizes that its charge does not include authority to conduct public hearings. However, the committee decided that informal meetings with local officials and local property owners who will be affected by the expansion of the AOD were appropriate and advisable in drafting these recommendations.

The ad hoc committee does not contend that by virtue of those meetings all concerns have been addressed and eliminated. Some concerns will always remain and we expect those concerns to arise again and be addressed at the public hearings recommended herein.

It should be noted that the ad hoc committee had the extensive involvement of officials from the Towns of Clayton, Greenville, Grand Chute, and Menasha, and from Winnebago County. The Committee particularly extends its appreciation to the following persons who attended almost all of our meetings: Mark Luebke, Chairman, Town of Clayton; Cary Rowe, Zoning Administrator, Winnebago County; Brian O'Rourke, Associate planner, Winnebago County; Cary Nate, Building Inspector, Town of Grand Chute; George Dearborn, Director of Community Development, Town of Menasha; and Richard Johnson, Administrator, Town of Clayton.

The ad hoc committee also extends its appreciation to Tim Roach, Outagamie County Zoning Administrator, and Mike Hendrick, Planning Director, for their willingness to meet with local property owners and officials in the various towns surrounding the airport and in Winnebago County.

The ad hoc committee completed its charge upon approving this report, and subsequently dissolved. However, the Chairman remains willing to support the efforts of the Property and Zoning committees in adopting these recommendations.

## **Recommendations**

**Recommendation # 1 – THAT A PURCHASE OF DEVELOPMENT RIGHTS PROGRAM (PDR) NOT GO FORWARD AS AN ORDINANCE AMENDMENT AT THIS TIME AS ZONING ORDINANCES ARE TYPICALLY PRESCRIPTIVE DOCUMENTS AND THIS PROPOSED INSERTION OF A PDR WOULD RESTRICT OR LIMIT THE COUNTY AIRPORT'S ABILITY TO EXERCISE VARIOUS OPTIONS TO PROTECT THE AIRPORT'S INTERESTS.**

**Comment** – The ad hoc committee agreed that the agricultural farmland surrounding critical areas of the airport should be preserved as agricultural land. The committee explored whether or not to recommend that the Airport create a Purchase of Development Rights (PDR) District. A PDR District would give the Airport the authority and the financial means to compensate owners of agricultural land for their willingness to accept a permanent deed restriction on their land that prevents future development for non-agricultural purposes. The FAA recommends the outright purchase of land by airports rather than using PDRs but understands that the decision on how best to preserve agricultural use lies with local authorities.

After research and discussion by the ad hoc committee of how PDRs are established and how they work, the ad hoc committee decided that it would be inappropriate for the Airport to create and administer a PDR. Purchase of Development Rights entities are permanent bodies usually formed by municipalities and funded by local tax revenues and state and federal grants. There are three such PDRs in Wisconsin (as of this writing) and all three have wider uses than restricting the development of a few specific pieces of property. None were formed by or are administered by an airport. The committee decided not to put wording regarding the use of a PDR into the AOD Ordinance because such use may be appropriate in some circumstances and inappropriate in other circumstances, and it would be difficult to describe those circumstances in ordinance language.

It was also noted by the ad hoc committee that the Airport already has the option to purchase development rights and therefore does not need a formal PDR District to do so.

**Recommendation # 2 – THAT THE ATTACHED MATRIX BE APPROVED AS THE OUTAGAMIE COUNTY REGIONAL AIRPORT LAND USE MATRIX TO BE USED IN THE APPLICATION OF THE ORDINANCE.**

**Comment** – “Matrix” is the term used to refer to a “chart-like” depiction of the various types of developments that can or cannot occur in the various AOD zones and a “yes” or “no” as to whether that type of development is permitted, along with explanations. It is a tool used by local municipalities to provide “one-stop” guidance to potential developers rather than causing those developers to go back and forth between the municipality and the county. It empowers local zoning officials to make local decisions while preserving Outagamie County’s right to review and decide.

Although the Matrix refers to “deputization” of local zoning officials, the committee agreed that local officials can, for whatever reason (lack of staff, for example), refer applicants directly to Outagamie County rather than being held accountable for make the zoning decision locally.

**Recommendation # 3 – THAT ATTACHED SECTION 48-107(a) OF THE STORM WATER ORDINANCE BE AMENDED BY ADDING SUBSECTION (5) AS INDICATED THEREON.**

**Comment** – Standing ponds can become an attractant for large birds, and developers need to know of additional design features for such ponds in order to eliminate those dangers to aviation. See Wildlife Hazard Assessment for Outagamie County Regional Airport, Nov. 2005 – October 2006, submitted by the United States Department of Agriculture.

The committee decided that the best way to approach wildlife control within the AOD is to add the language indicated above to Sec. 48-107(a) of the Storm Water Ordinance and then indicate in footnote 6 in the Matrix that the County of jurisdiction has final authority to decide.

**Recommendation # 4 – THAT AN AIRPORT NOISE COMPATIBILITY STUDY (KNOWN AS A “PART 150” STUDY) NOT BE PURSUED AS PART OF THE AOD ORDINANCE REVISIONS.**

**Comment** – Part 150 studies are very expensive to conduct. They require noise modeling sensors to be set up throughout the community and additional staff to monitor the sensors and perform the study. If such a study is deemed necessary it can be performed and implemented via local jurisdictions. However there was no need identified by the Committee for a noise mitigation study to be performed for these revisions to the AOD Ordinance.

**Recommendation # 5 -- THAT THE ATTACHED MAP BE APPROVED AS THE OUTAGAMIE COUNTY REGIONAL AIRPORT ZONING MAP TO BE USED IN THE APPLICATION OF THE ORDINANCE.**

**Comment** – This map accurately depicts the various zones and boundaries in the Airport Overlay District and should be designated as the official map to be used in the administration of the ordinance.

**Recommendation # 6 – THAT THE AIRPORT OVERLAY DISTRICT BE EXTENDED INTO WINNEBAGO COUNTY AS INDICATED ON THE OFFICIAL AIRPORT OVERLAY DISTRICT ORDINANCE MAP.**

**Comment** – The ad hoc committee decided to have local officials and local property owners meet with the Outagamie County Zoning Administrator to review the impact of extending the AOD into Winnebago County as indicated on the AOD map. Such meetings have occurred and the recommendations in this report take into consideration comments and concerns expressed at those meetings.

**Recommendation # 7 -- THAT THE AOD ORDINANCE BE AMENDED AS LISTED BELOW AND AS INDICATED ON THE ATTACHED COPY OF THE CURRENT ORDINANCE.**

1.) Sec. 10-498(a) Definitions:

Airport Master Plan – Language added to reflect future revisions.

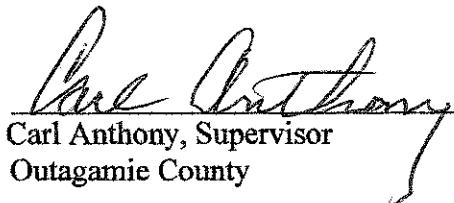
Nonconforming Use – Language added to reflect prior effective date and new effective date for the areas added to the AOD.

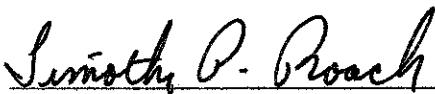
Tower – New term and definition added to reflect concern for communication towers.

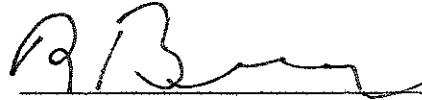
- 2.) Sec. 10-518 – Date changed to reflect new map.
- 3.) Sec. 10-520 – Added Towns of Clayton and Menasha to reflect extension of AOD into those towns. Additional language reflects new policy of deputy inspectors in the four towns having authority to issue permits using the new land use matrix.
- 4.) Sec. 10-522(d) and (e) – Changed to reflect new effective dates because of now including Winnebago County in the Airport Overlay District. Subsection (f) is added to bring into the ordinance the application of the FAA Advisory Circular on detention and retention ponds.
- 5.) Sec. 10-524 – Identifies the Land Use Matrix as an official part of the ordinance.
- 6.) Sec. 10-674 (3) revised as indicated to simplify the intent of the provision, and (6) be added as indicated to address incidental structures.
- 7.) Sec. 10-677 revised to reflect new effective date.

Respectfully submitted,

  
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Supervisor, Outagamie County

  
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Outagamie County

  
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