CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT
Economic Development Division

SUBJECT:  John C. Munro Hamilton International Airport - Federal Zoning Regulations (PED05137) (City Wide)

RECOMMENDATION:

(a) That the City of Hamilton request Transport Canada to revise and update the John C. Munro Hamilton International Airport Zoning Regulations.

(b) That the City of Hamilton request Public Works and Government Services Canada to provide their services with respect to revising and updating the John C. Munro Hamilton International Airport Zoning Regulations.

(c) That $129,000, representing the City of Hamilton’s 50% share of the total cost of revising and updating the John C. Munro Hamilton International Airport Zoning Regulations, be funded from the City’s Development Charge Studies Reserve #110324.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The City of Hamilton and/or Tradeport International is responsible for requesting revisions or updates to John C. Munro Hamilton International Airport (HIA) Zoning Regulations and paying all costs associated with such amendments to the Airport Zoning Regulations (AZRs). AZRs restrict the heights of buildings, structures, and objects...
Federal Airport Zoning Regulations (AZRs) restrict the heights of buildings, structures, and objects (including natural growth such as trees) on regulated lands; prohibit electronic interference with telecommunications; and, protect aircraft from potential hazards such as bird strikes from surrounding feeding or resting areas like man-made or natural water bodies or ponds. Transport Canada is the certifying authority for airports in Canada and is responsible for managing the Airport Zoning Regulation process. Public Works and Government Services Canada acts as the agent for Transport Canada for airport zoning regulation projects. The entire process is estimated to take approximately two (2) years and will cost an estimated $258,000. The City has secured 50% of this estimated cost from Tradeport International Inc. This report formally requests the remaining share of costs to be approved (i.e. $129,000).

**BACKGROUND:**

Federal Airport Zoning Regulations (AZRs) restrict the heights of buildings, structures, and objects (including natural growth such as trees) on regulated lands; prohibit electronic interference with telecommunications; and, protect aircraft from potential hazards such as bird strikes from surrounding feeding or resting areas like man-made or natural water bodies or ponds.

Appendix A outlines the detailed definition and purpose of AZRs as well as a more detailed summary of the Federal amendment process.

The following is a general outline of the process to create a new Airport Zoning Regulations (AZRs) and the potential services that Public Works and Government Services Canada (PWGSC) would provide. The total time required for the complete AZRs process is approximately two (2) years. This time required can be significantly affected by public opinion, elections (slowing Federal government approvals) and budgetary constraints.

**A) Overview of the Proposed Hamilton International Airport Zoning Regulation**

Hamilton International Airport is located within the City of Hamilton to the south of the downtown core. It is serviced by the major roads including New Hwy. 6, Hwy. 403 and the Lincoln M. Alexander Parkway. The Airport currently has an Airport Zoning Regulation deposited in March, 1984. The current zoning provides land use regulations related to an outer surface and three (3) runways; namely 12L-30R, 12R-30L and 07-25. The approach surfaces related to the runways are all 3 kms in length except for 12L-30R which is 15 kms (see Appendix B).
The proposed new zoning would provide land use regulations related to an outer surface and two (2) runways; namely 12-30 and 06-24. The approach surfaces related to all runways are proposed at 15 kms. The current and proposed certification requirements and AZR based on the Hamilton International Airport Master Plan recently endorsed by City Council are summarized on Appendix B for your information. Preliminary investigations indicate all zoning surfaces except the approach surface related to the end of runway 06-24, would be situate wholly within the City of Hamilton. At approximately 5 kms from the end of the proposed runway extension, the approach surface for runway 06-24 extends across the southerly boundary of the City of Hamilton and into the Counties of Haldimand and Brant. At approximately 10 kms from the end of the proposed runway extension, the approach surface for runway 06-24 extends into the Six Nations Reserve along the Grand River.

The proposed AZRs would encompass approximately 21,000 ha. and affect an estimated 30,000 properties. The proposed AZRs are illustrated in Appendix C.

An important issue to be reviewed and resolved is the need for an 'obstacle assessment' and the subsequent remediation of any objects found to encroach into the new zoning surfaces (approach surfaces, transition surfaces, etc.). Section 5.4(4 & 5) of the Aeronautics Act states:

(4) No zoning regulation shall apply to or in respect of a use of land, buildings, structures or objects or a building, structure or object that, on the day on which the zoning regulation comes into force, exists as a use, building, structure or object that does not conform to the zoning regulation.

(5) For the purposes of subsection (4), where on the day on which a zoning regulation comes into force, all approvals for construction required by law have been obtained permitting a building, structure or object that, if constructed, would not conform to the zoning regulation, the building, structure or object shall be deemed to exist on the day on which the zoning regulation comes into force.

This is generally referred to as the 'nonconforming' clause. It may allow a property owner to refuse consent to the removal or alteration of an object that encroaches into the zoning surfaces. This could result in a long-term displacement of a runway threshold and adversely affect the operation of HIA. As a minimum, the PWGSC suggest that an examination of the zoning surfaces be undertaken to identify any objects and then an informed decision can be made to proceed with or without remediating the objects. The HIA is almost ideally located from an elevation of land perspective as the surrounding land generally slopes downward in all directions from the Airport. Some investigation will have to be undertaken with respect to the northwesterly part of the proposed outer surface as the land rises to a height of approximately 250 m or 25 m below the outer surface. The approach surfaces should be investigated out to an elevation of about 350 m with particular attention to any communication towers.
With regard to an obstacle assessment, Real Property Geomatics Service (RPGS) would review the airport environment to determine the most cost effective technology to detect and measure the position and height of objects which are close to the proposed zoning surfaces. The PWGSC can undertake the competitive contracting for these services, provide the successful contractor with detailed technical instructions and provide quality control of the survey returns. The PWGSC can also provide services in negotiating with property owners to enter onto the lands to remediate any encroachments and in contracting for services to do the actual remediation (such as tree removal or tree trimming). The PWGSC are prepared to provide the level of service that is appropriate to the City’s needs and can provide additional cost estimates for this work should it be required.

B) Creating an Airport Zoning Regulation (Federal Process)

1. Project Startup:
   a) General

   The PWGSC suggest an initial meeting involving the City, the HI Airport Manager, Transport Canada and PWGSC staff to establish a rough project schedule and to clearly define responsibilities. Some technical issues to be reviewed are:

   • confirm AZR specifications;
   • review existing property mapping for currency, completeness, and identify any problems;
   • review existing technical survey data for currency, completeness, and identify any problems;
   • confirm mapping standards;
   • confirm any requirements for bird avoidance zone studies; and,
   • share technical information and identify any problems with data integration.

2. Preparing the AZR Draft Documents

   There are two (2) essential data sets required to prepare any airport zoning document:

   a) Underlying Base Maps

   Digital maps which accurately and completely illustrate sufficient property ownership in the areas to be zoned are required so that the public users of the documents can determine if and how their property is affected by the regulation.
b) Runway Data

The location and elevation of the runway pavement centre line, runway thresholds, and other aeronautical requirements must be accurately determined and related to the underlying base maps so that the zoning surfaces can be calculated.

RPGS would calculate, confirm or otherwise determine the limits of all zoning surfaces and land use zones. PWGSC can prepare all the necessary AZR maps. RPGS would prepare all the AZR text, legal descriptions, and the like. The draft maps would be thoroughly reviewed for completeness and accuracy.

The draft AZR text and maps would then be provided to Transport Canada and the Airport for final review to confirm that they properly reflect your instructions and the requirements of Transport Canada.

3. Public Notice and Finalizing the AZR Documents

After receiving the comments from Transport Canada and the City/Airport Manager, RPGS will make any required amendments to the maps and the AZR text. Transport Canada and the Airport then provide these draft documents to all local municipalities to obtain their support / comments regarding the new AZR. After receiving this input, the AZR text would then be translated into French and forwarded to the Justice Department for their review.

Public notice of the proposed AZR must be published in French and English in local newspapers and the Canada Gazette. RPGS can assist with the preparation and translation of these notices.

After the public notice period is complete, any amendments to the French and English AZR text and maps would be made as a result of that process.

Section 5.6 (2) of the Aeronautics Act provides that the zoning regulation shall be “signed by the Minister and by a land surveyor duly licensed in and for the province in which the lands are situated, ...”. RPGS surveyors would sign off on the regulation pursuant to this section of the Act.

4. Order in Council / Deposit in Land Registry Office(s) / Distribution

After the AZR text and zoning maps are in their final forms, they are forwarded to the Minister of Transport and to the Privy Council to procure an Order in Council which authorizes the new AZR. If it has been several months since the zoning maps were created, it will be necessary to review and update the underlying base maps. The AZR text and zoning maps are then forwarded to the appropriate land registry office(s) for deposit on title. In Land Registry Offices that are now computerized (automated), RPGS has developed a process together with the
Land Registry Offices, to automate the deposit of Airport zoning regulations. The deposit is recorded against the hundreds (or thousands) of properties in one day. After deposit of the AZR, RPGS will undertake the printing and binding of 15-20 copies of the AZR text and zoning maps. Copies are then distributed to the land registry office(s), area municipalities, Transport Canada, PWGSC and the Airport.

5. Public Notice of the final Airport Zoning Regulation

After deposit of the AZR, the full regulation must be published in French and English in local newspapers and the Canada Gazette. RPGS can assist with the preparation of these publications.

6. ‘Base Line’ Aerial Photography

As noted above, objects which are “nonconforming” prior to the AZR are not subject to the revised AZR. Thus, it may be necessary to determine the location, height, and size of an object at the time the AZR comes into effect. Aerial photography is taken of the lands affected by the airport zoning and is archived for the purpose of helping to determine the condition of affected properties at the time of the AZR coming into effect.

**ANALYSIS OF ALTERNATIVES:**

There are no practical alternatives to revising AZRs at the HIA. Transport Canada is the certifying authority for the airports in Canada and is responsible for verifying aeronautic requirements, managing the AZR process, and for providing technical assistance. Transport Canada is also responsible for taking enforcement action, where voluntary compliance is not forthcoming and it is deemed to be necessary. Public Works and Government Services Canada acts as the agent for Transport Canada for airport zoning regulation projects such as this one. Therefore, it is most prudent to utilize the experts who will ultimately approve the new AZR for the HIA.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

A new Airport Zoning Regulation would be considered a necessary component with regards to the direction and scope of future development within the Airport development area. That is why development charges will be funding this project which will be added to the City’s list of growth-related capital in the subsequent City Development Charges Background Study.

Costs for completing revised AZR for HIA are largely based on two (2) essential data sets (ie: underlying base maps and runway data) Registry Office deposit costs and publication costs. The City may be able to supply some of the base mapping and reduce publication costs through use of our “At Your Service” page. Appendix D is a very approximate summary of time and costs estimated to implement a new AZR for Hamilton International Airport (Federal Process). It is based on a number of assumptions that can be reviewed and further refined with discussion.
If approved the AZR process can commence before the end of this year and take approximately two (2) years to complete. Total cost for the process is estimated to be $258,000. City staff has secured 50% of this estimated cost from Tradeport International Inc. this report formally requests the remaining share of costs to be approved (ie: $129,000). Please note that the time and costs in Appendix D are only those costs and times associated with Transport Canada and PWGSC activities related to the proposed Airport zoning regulation. City staff time has not been included and would be comprised of day-to-day project management and reporting to Council.

**POLICIES AFFECTING PROPOSAL:**

If and when the AZRs are approved and implemented, they will supercede the existing Official Plan and Zoning By-laws of the municipality. However, all yard requirements, permitted uses and provisions within the Official Plan and Zoning By-laws are still applicable provided they do not conflict with the provisions of the AZRs.

**CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:**

The following Departments/Agencies were consulted:

Finance
Information Services
Economic Development
City Manager – GRIDS
Tradeport International Inc.
Airport Implementation Task Force
Transport Canada
Public Works and Government Services Canada

**CITY STRATEGIC COMMITMENT:**

City Council's Strategic Plan “Right on Course” commits to the following:

(a) to focus all available resources on economic development as its No. 1 priority with particular attention to the Airport as a key economic node to future prosperity;

(b) to pursue initiatives at the Airport to ensure benefits of economic development are felt City-wide; and,

(c) to pursue investment in strategic infrastructure to attract new non-residential business.

:GP
Attachs. (4)
BACKGROUNDER - AIRPORT ZONING REGULATIONS

WHAT ARE AIRPORT ZONING REGULATIONS (AZRs)?

Airport Zoning Regulations (AZRs) are federal regulations enacted to ensure that lands adjacent to and in the vicinity of airports or airport sites are used in a manner compatible with the safe operations of aircraft and the airport itself.

The safety of aircraft operating in the airspace surrounding Canadian airports is of vital concern to the people who live near them, to pilots, the airports operators, and to Transport Canada. To ensure that obstacles do not intrude into this airspace, Transport Canada puts certain restrictions into force under the airport zoning provisions of the federal Aeronautics Act.

These regulations are enacted not only to protect the present operations of an airport, but also to help ensure that potential and future development surrounding the airport remains compatible with the safe operation of aircraft and the airport.

AZRs apply to lands adjacent to and in the vicinity of the airport and include privately owned lands, municipal or provincial lands, and road allowances. Lands within the airport boundary are controlled by the airport operator and are not subject to AZRs. However the airport operator is responsible for controlling obstacles on airport lands in accordance with the certification requirements of the airport certificate. Airport Zoning Regulations can only be enacted at an airport or an airport site. Aerodromes that do not hold an airport certificate are not eligible for AZRs.

AZRs restrict the heights of buildings, structures and objects (including objects of natural growth) on the regulated lands, prohibit electronic interference with telecommunications and aviation facilities, and protect aircraft from potential hazards such as bird strikes.

PURPOSES OF AIRPORT ZONING REGULATIONS

Airport Zoning Regulations are enacted in order to:

- restrict the maximum heights of obstacles under the Takeoff/Approach Surfaces, Transitional Surfaces, and the Outer Surface;

  Building restrictions limit the heights to which any building, structure or object can be built under any of the Obstacle Limitation Surfaces (OLS).

  The height of natural growth (trees) is restricted and landowners are required to remove growth in excess of allowable heights. Tree trimming
zoning for the first time will normally be zoned using the Federal/Provincial Process and amended with the same process.

The Federal AZR process consists of five stages, the first of which is initiated when the appropriate authority identifies the need to implement or amend AZR. Transport Canada confirms the aeronautical requirements and forwards them to Public Works and Government Services Canada (PWGSC). PWGSC produces draft regulations.

During the second stage, affected municipalities are formally advised of Transport Canada’s intent to enact Airport Zoning. Draft regulations are sent to the municipalities for their review, and the Department meets with locally elected officials for consultations. AZR are then forwarded to the Regulations Unit for legal examination and translation. A draft Regulatory Impact Analysis Statement (RIAS), which includes a summary of consultations and a cost-benefit analysis is sent to the Minister. The AZR are published in Canada Gazette, Part I and a notice is published in the local newspaper(s). The publication of a proposed AZR in the Canada Gazette, Part I signals the start of a 60-day period during which any interested parties may make written representations to the Minister. All representations received by Transport Canada will be reviewed and assessed, and a final decision on the proposed AZR will be published in the Canada Gazette, Part II.

During the third stage, the airport operator conducts open houses and information sessions for members of the public. The public’s comments are received and summarized for inclusion in an updated RIAS.

In the fourth stage the AZR, accompanied by an updated RIAS, are scrutinized by various internal government offices and are submitted to Privy Council for final approval. The approved regulation is then published in Canada Gazette, Part II.

During the final stage the regulation comes into force when it is deposited in the local Land Titles and Registry Offices and published in the local newspaper(s).

The following chart illustrates the Federal process for the enactment of airport zoning regulations:

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DRAFT ANNEX "A"

PREPARATION OF DRAFT REGULATION

COMPLETE DRAFT REGULATION, TEXT AND PLANS
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MONITORING AND ENFORCEMENT

Both the airport operator and Transport Canada have a vital role to play in monitoring the integrity of the obstacle limitation surfaces specified in airport zoning regulations.

Transport Canada, Aerodromes and Air Navigation, inspects airports on a regular basis to verify that there are no new obstacles. The Canadian Aviation Regulations require the airport operator to monitor for the presence of objects that penetrate the obstacle limitation surfaces and that may violate the airport zoning regulations.

Airport operators are encouraged to adopt a “good neighbour policy” that keeps adjacent landowners apprised of the airport’s requirements, including airport zoning regulations. As trees are a common problem at airports, operators should have a forest management program which addresses potential problems well in advance when there are more options and much less cost.

The responsibility for enforcing regulations and prosecuting violations rests with Transport Canada. The airport operator is expected to contact the landowner and try to get voluntary compliance. Transport Canada will consider options and possible enforcement action on a case-by-case basis.

PUBLIC CONSULTATION

Transport Canada is required to ensure that all relevant information is made available and that all interested persons have an opportunity to make their views known. Public consultation begins just as soon as an airport is identified for zoning, through contact with local government officials and airport-related commercial interests. Consultation will continue until the Minister of Transport has approved the regulations.
Transitional Surfaces:
A surface sloping up sharply from the runway and the take-off/approach surface as far as the outer surface, to protect aircraft flying at low levels over the airport or on missed approaches.
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* Indicates required changes to existing airport zoning.