

MEMORANDUM

TAPS

Agenda Item No. 1G1

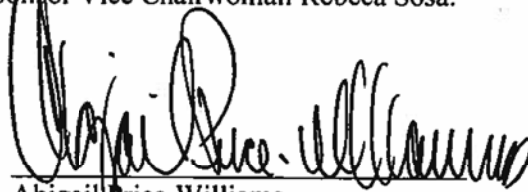
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: March 13, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to airport zoning regulations; creating article XXXVII of chapter 33 of the Code; providing airport zoning regulations applicable to land in and around all Miami-Dade County airports; deleting in their entirety articles XXXVII, Miami International Airport (Wilcox Field) Zoning; XXXVIII, Opa Locka Airport Zoning; XXXIX, Homestead General Aviation Airport Zoning; and XL, Kendall Tamiami Executive Airport Zoning, of chapter 33; deleting section 33-303.2; amending subsection 33-314; adopting new airport zoning regulations for development on airport property and for development on surrounding properties in designated land use and noise compatibility restriction zones and in airport height restriction areas; adopting procedure for review of applications for development permits and permits for temporary structures, cranes, and events within land use and noise compatibility restriction zones and airport height restriction areas; adopting procedure to obtain variances from certain airport zoning regulations; providing legislative intent, findings, purpose, and applicability in the incorporated and unincorporated areas; providing definitions; providing airport land use maps and figures; providing for enforcement; directing County Mayor to terminate certain interlocal agreements regarding Miami International Airport (Wilcox Field) Zoning

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor or Vice Chairwoman Rebeca Sosa.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



Date: January 23, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive, flowing style.

Subject: Ordinance Revising Current Zoning Regulations for Miami-Dade County Airports and Surrounding Lands

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance revising existing airport zoning regulations for Miami-Dade County airports and surrounding lands. As set forth in more detail below, the proposed ordinance makes substantive changes regarding allowable uses in and around airport property, land use and noise compatibility and height restriction zones, nonconforming uses, permit review and variance procedures, and enforcement. The proposed ordinance also conforms provisions to recent changes in Florida law and Federal Aviation Administration (FAA) rules and regulations. The proposed ordinance effectuates such revisions by deleting four articles of the existing code containing zoning regulations for the County's four major airports and replacing them with a single article applicable to all such airports.

Scope

Countywide.

Fiscal Impact/Funding Source

Approval of this item is not anticipated to create a fiscal impact to the County, as the proposed changes will not require additional staffing resources nor generate additional operational expenses.

Social Equity

The purpose of the proposed ordinance is to safeguard airport operations while protecting the health, safety, and welfare of the County's population. Additional information pertaining to social equity is set forth in the proposed ordinance's legislative intent, findings, purpose, and applicability provisions.

Track Record/Monitor

Nathan Kogon, Assistant Director, Development Services Division, Department of Regulatory and Economic Resources (RER), and Jose Ramos, Division Director, Miami-Dade Aviation Department (MDAD).

Background

The new airport zoning regulations set forth in the proposed ordinance contain: (1) revised definition sections; (2) revised land use regulations that accord with recent changes to chapter 333, Florida Statutes, as well as the FAA's Airport Design Advisory Circular (AC 150/5300-13A) and Interim Guidance on Land Uses Within a Runway Protection Zone, and other administrative interim guidance determinations; (3) revised height and airspace regulations; and (4) revised airport land use and height maps. Additionally, and pertaining uniquely to Miami International Airport (MIA), the regulations reflect revised height contours for the Downtown Miami area and retain the height variance eligible area that this Board established in Ordinance No. 18-40.

Section 333.03, Florida Statutes, requires counties to coordinate airport zoning regulations with municipalities. The proposed ordinance relies on the County's unique home-rule authority to require municipalities to meet the minimum standards of this ordinance, rather than using interlocal agreements as referenced in the statute and as had been previously used to coordinate the existing regulations with certain municipalities. The use of home-rule authority provides greater clarity and certainty in the coordination of zoning regulations around the County's airports. The ordinance also directs the administration to terminate existing interlocal agreements with the City of Miami and the City of Doral regarding airport zoning, because those agreements are based on the zoning

regulations that are being repealed by this ordinance and are therefore moot. Additionally, the ordinance expressly provides that it applies to Miami-Dade County School Board facilities, in accordance with: (1) section 1013.33, Florida Statutes, which requires the location of public educational facilities to be consistent with the County's CDMP and zoning regulations; and (2) the Interlocal Agreement for Public Schools Facility Planning between Miami-Dade County and the School Board of Miami-Dade County, adopted pursuant to Miami-Dade County Resolution No. R-423-09, as may be amended, which provides criteria and a process for selection of public school sites.

The zoning code currently contains four articles dedicated to the County's four major airports: Article XXXVII, Miami International Airport (Wilcox Field) Zoning; Article XXXVIII, Opa Locka Airport Zoning; Article XXXIX, Homestead General Aviation Airport Zoning; and Article XL Kendall Tamiami Executive Airport Zoning. Said articles contain the land use and height/airspace regulations for each airport. Given their nature, said articles tend to be repetitive and duplicative of one another. In a manner similar to that of the County's Standard Urban Center District Regulations, the proposed ordinance consolidates the individual airport regulations into a single "airport code" by establishing new airport zoning regulations applicable to all Miami-Dade County Airports and deleting the individual airport articles. The proposed ordinance also deletes other related provisions of the existing code that are obviated by the new regulations. Of particular note, the Airport Development Impact Committee (Airport DIC) will no longer be necessary upon adoption of the new regulations, because the relevant reviews will be done by MDAD in consultation with the applicable zoning department, and appeals of MDAD determinations will be heard by this Board directly, as explained further below; therefore, the proposed ordinance deletes section 33-303.2 in its entirety and amends section 33-314 accordingly.

Finally, the proposed ordinance reflects the recent name changes for: Miami Executive Airport (TMB), per Resolution No. R-731-14; Miami-Opa Locka Executive Airport (OPF), per Resolution No. R-861-14; and Miami Homestead General Aviation Airport (X51), per Resolution No. R-1102-14. The ordinance does not apply to the Dade-Collier Training and Transition Airport (TNT), which lies primarily in Collier County.

The following provides a more detailed summary of the proposed ordinance's provisions:

- *Airport property, allowable uses.* The ordinance expressly provides for the uses that are allowed at each of the County airports in accordance with the Aviation Subelement of the County's Comprehensive Development Master Plan (CDMP). These uses are categorized as aviation, aviation-related, and non-aviation uses. Aviation uses include, among other things, terminals, runways, and control towers. Aviation-related uses provide support to aviation uses. Non-aviation uses, such as hotels or retail stores, are allowed in certain areas of the airports if compatible with airport operations and if in compliance with FAA rules and regulations and other applicable laws and regulations. This ordinance sets forth an administrative approval process for non-aviation uses, including an administrative site plan review.
- *Land use regulations.* To guide incompatible land uses away from airport environs and to encourage compatible land uses to locate around airport facilities, section 333.03(2), Florida Statutes, requires the adoption of airport land use zoning regulations. The County's existing airport regulations are based on the version of chapter 333, Florida Statutes, in effect in 2004, when this Board last adopted a comprehensive revision to the Miami International Airport (MIA) regulations in Ordinance No. 04-203, and even earlier for the other airports. Since then, the Florida Legislature has adopted a comprehensive overhaul to the statutory regime, which the proposed ordinance reflects and implements. To that end, the proposed ordinance regulates land use and noise compatibility restriction zones around each of the County airports in accordance with current Florida law and FAA guidelines. In addition, the proposed ordinance requires that property owners must disclose to prospective buyers when land is located in a land use or noise compatibility zone, prior to consummation of real estate transactions.

The intent of regulating land use in the various restriction zones is to protect the vulnerable public and safeguard people and property on the ground, especially within the inner portion of the approach of landing

aircraft. The inner portion of the approach is considered to be the most vulnerable part of an aircraft flight. This is where aircrafts take off and where final descent and landing takes place. The land use compatibility regulations contained herein seek to address the impact of aircraft operations on surrounding uses, to safeguard the quality of life in the surrounding communities, while increasing the efficiency of airports as economic generators.

A comparison between the size and scale of the current land use restriction zones and those set forth in the proposed ordinance are respectively depicted for Miami International Airport (MIA) and Miami Executive Airport (TMB) in Figures 1 and 2, which are attached as exhibits to this memorandum. No such comparison is provided for Miami-Opa Locka Executive Airport (OPF) or Miami Homestead General Aviation Airport (X51), because land use restriction areas for those airports are being introduced for the first time in this ordinance.

Section 333.03(2)(c), Florida Statutes, authorizes the County to identify incompatible land uses and determine appropriate regulations for such uses if it has "established noise contours pursuant to [a] public study approved by the Federal Aviation Administration." For Miami International Airport (MIA), the applicable study is "2017 Noise Contour Analysis," dated November 8, 2018. For Miami-Opa Locka Executive Airport (OPF), the applicable study is "2017 Noise Contour Analysis," dated December 27, 2018. And for Miami Executive Airport (TMB), the applicable study is "2017 Noise Contour Analysis," dated December 27, 2018. The above-referenced studies are on file with MDAD. On the other hand, where a noise contour study has not been conducted, the default noise contours mandated by section 333.03(2)(d), Florida Statutes, continue to apply, and "residential construction and any educational facility, with the exception of aviation school facilities" must therefore be prohibited within the default statutory noise compatibility restriction zone. Because no noise study has been conducted for Miami Homestead General Aviation Airport (X51), this airport continues to be subject to the statutory default and the corresponding prohibition on residential construction and educational facilities.

Figure 3, attached to this memorandum, depicts a comparison between the current code's noise restriction zones for Miami International Airport (MIA) and the new noise contours included in the proposed ordinance. Figures 4 and 5, attached to this memorandum, respectively provide a similar comparison for noise contours at Miami-Opa Locka Executive Airport (OPF) and Miami Executive Airport (TMB). As depicted, the new noise contours are smaller in footprint and size due to the fact that aircraft engines have become quieter with technological advances in engine manufacturing.

Previously, Florida statutes required "no school" zones of a certain size around airports. The code currently contains such zones for Miami International Airport (MIA) and Miami Executive Airport (TMB). In 2016, however, the Florida Legislature deleted the "no school" zone requirement from the statute. Nevertheless, the proposed ordinance continues to prohibit educational facilities (other than aviation schools) in the new land use restriction zones and does not allow that prohibition to be subject to variance. Accordingly, Figures 6 through 9, attached to this memorandum, depict the areas in which educational facilities will be prohibited around each County airport. In addition, Figures 10 and 11, attached to this memorandum, respectively provide a comparison between the existing and proposed zones in which educational facilities are prohibited around Miami International Airport (MIA) and Miami Executive Airport (TMB).

The following table offers further general comparisons between the current and proposed land use and noise compatibility restriction zones applicable to County airports:

Current Code	Proposed Code	Description	Comment
Inner Safety Zone	Runway Protection Zone (RPZ)	<ul style="list-style-type: none"> • Most critical safety zone located 200 ft. beyond each end of a runway. • No schools or buildings of public assemblage 	Remains essentially the same as current code but renamed as per FAA. Also, this area is now subject to recent FAA Interim (Land Use) Guidelines reflected in the proposed amendment

Current Code	Proposed Code	Description	Comment
		<p>allowed in these zones.</p> <ul style="list-style-type: none"> • Variances within the RPZ not permitted. 	<p>that further limit allowable uses, subject to review and approval by MDAD, following FAA review.</p>
Outer Safety Zone	Outer Safety Zone (OSZ)	<ul style="list-style-type: none"> • Second most critical safety zone located beyond each runway protection zone. • No schools or buildings of public assemblage allowed in these zones. • For MIA, variances within the OSZ not permitted. 	<p>Remains essentially the same as current code.</p>
Additional Limitations (10,000 feet)	Critical Approach Zone (CAZ)	<ul style="list-style-type: none"> • Zone extends 10,200 feet from the end of each runway. • No new schools allowed, hospitals, or similar facilities permitted. • No landfills, smoke/gas emitting uses, or uses that may create electrical and radio interference with airport operations allowed. 	<p>Remains essentially the same as the current code.</p>
No School Zone (Critical Approach)	RPZ, OSZ, and CAZ	<ul style="list-style-type: none"> • No new educational facilities shall be permitted in the areas that comprise the RPZ, OSZ, and CAZ surrounding airports. 	<p>The Florida Legislature removed the requirement for "no school" zones around airports in the 2016 Florida statutory revision, but the proposed ordinance retains the prohibition within the new land use and noise compatibility restriction zones.</p>
Inner Land Use Zone	75 DNL Zone	<ul style="list-style-type: none"> • Area inside the 75 decibel or greater noise contour. • No residential and schools allowed in this zone. • Mostly located within airport boundaries. 	<p>Current code primarily based on Florida statutory requirements for airports without a noise study as established in FAA's Rule 14 C.F.R. part 150. Proposed change reflects noise studies for Miami International Airport, Miami Executive Airport, and Miami-Opa Locka Executive Airport.</p>
Outer Land Use Zone	65-to-74 DNL Zone	<ul style="list-style-type: none"> • Area between the 65 and 74 decibel noise contours. • Certain structures located within the zone must incorporate sound-proofing in design and construction. 	<p>A noise study has not been conducted for Miami Homestead General Aviation Airport; thus, general Florida law requirements continue to apply to that facility.</p>

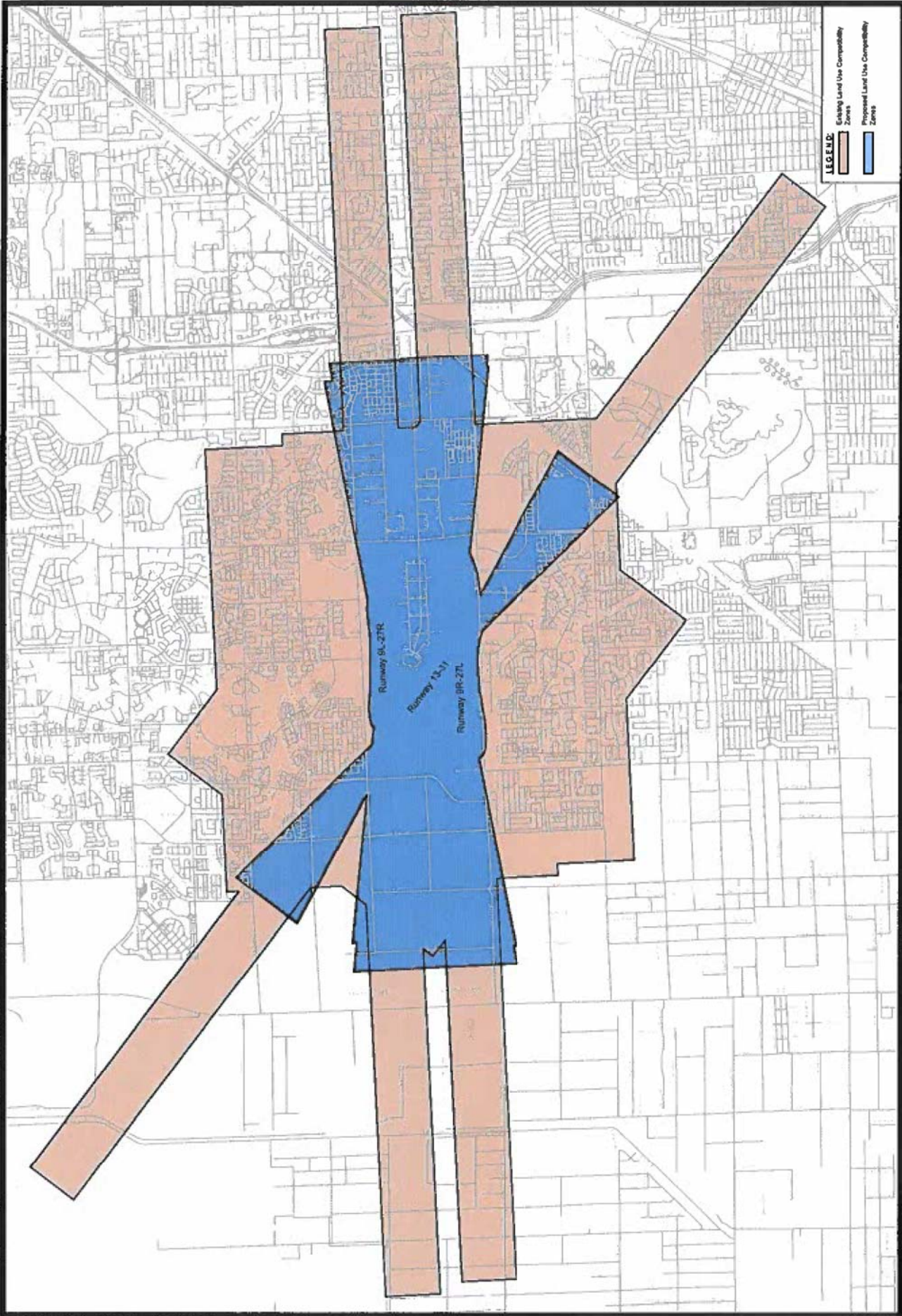
- Height/airspace regulations. To keep Miami-Dade County's airspace safe, navigable, and free of obstructions, the ordinance establishes airport height restriction zones around each airport, identifies limited areas around the airports where variances of the prohibitions may be applied for (the "variance-eligible areas"), and provides the airspace review criteria to be used to review permanent or temporary structures and special events. The ordinance retains the variance-eligible area for Miami-International Airport (MIA) that the Board recently adopted pursuant to Ordinance No. 18-40.

To be consistent with the FAA's Terminal Instrument Procedures (TERPS), the approach surfaces of the airport height restriction zones are being modified for all airports. This modification will ensure protection of the TERPS Initial Climb Area and preserve airport capacity. Figure 12, attached to this memorandum, represents the proposed modification to the airport height restriction zone, which includes the TERPS Initial Climb Area. A portion of the height restriction zone at Miami International Airport (MIA) located in the Downtown/Brickell area of the City of Miami is referred to as the High Structure Set Aside Area (HSA) and is suitable for tall buildings. The HSA is being modified to accommodate structures with elevations up to 1,049 feet above mean sea level. This area currently allows structures with elevations only up to 1,010 feet above mean sea level. The proposed revisions to the HSA will be less restrictive for vertical development, while protecting the safety of the airspace. This increase from 1,010 feet to 1,049 feet above mean seal level is consistent with the height at which the FAA has approved, and continues to approve, construction in this general area.

- Nonconforming uses. Consistent with section 333.06(3), Florida Statutes, the proposed ordinance allows existing uses not in compliance with the new regulations to continue under certain circumstances, provided they do not become greater hazards to airport operations and air navigation. Consistent with section 333.03(4), Florida Statutes, the ordinance also retains the provisions of the existing Code that allow the continued use and expansion of educational facilities or sites in existence on July 1, 1993, regardless of the land use compatibility zoning regulations, as such facilities are deemed not to be nonconforming uses.
- Permit review procedures. Except for height regulations, local cities and Miami-Dade County School Board are responsible for reviewing and enforcing these airport zoning regulations in their respective jurisdictions. MDAD and RER shall be responsible for review and enforcement in unincorporated areas and where the County exercises jurisdiction. Regarding height regulations, MDAD is responsible for airspace review prior to any municipal, School Board, or County approval.
- Variance procedures. The ordinance establishes procedures, requirements, and restrictions for variances from the aforementioned airport regulations, including the variance process recently authorized by Ordinance No. 18-40. The ordinance provides for variances to be decided administratively by MDAD, with appeal to the Board in a quasi-judicial zoning hearing pursuant to section 33-314(C)(6). The ordinance provides that only the County may grant variances of this article, regardless of whether the subject property is located in incorporated or unincorporated Miami-Dade County.
- Enforcement. The ordinance specifies the manner and extent of enforcement allowed, and delegates authority to the RER and MDAD Directors to commence appropriate legal action, including against any municipal or School Board permits not issued in compliance with these regulations.



Jack Osterholt
Deputy Mayor



Miami Executive Airport
 Scale: NTS
 January 2019

Figure 2 Miami Executive Airport Existing vs. Proposed Land Use and Noise Compatibility Restriction Zones Map

City of Miami Planning Department & Map Services, Zoning Land Use and Overlaid Prop. Map/Land Use Map 2017/Land Use Map Comparison 010818_Avg_Layout_1403_Jan_09_2019_8.5x11

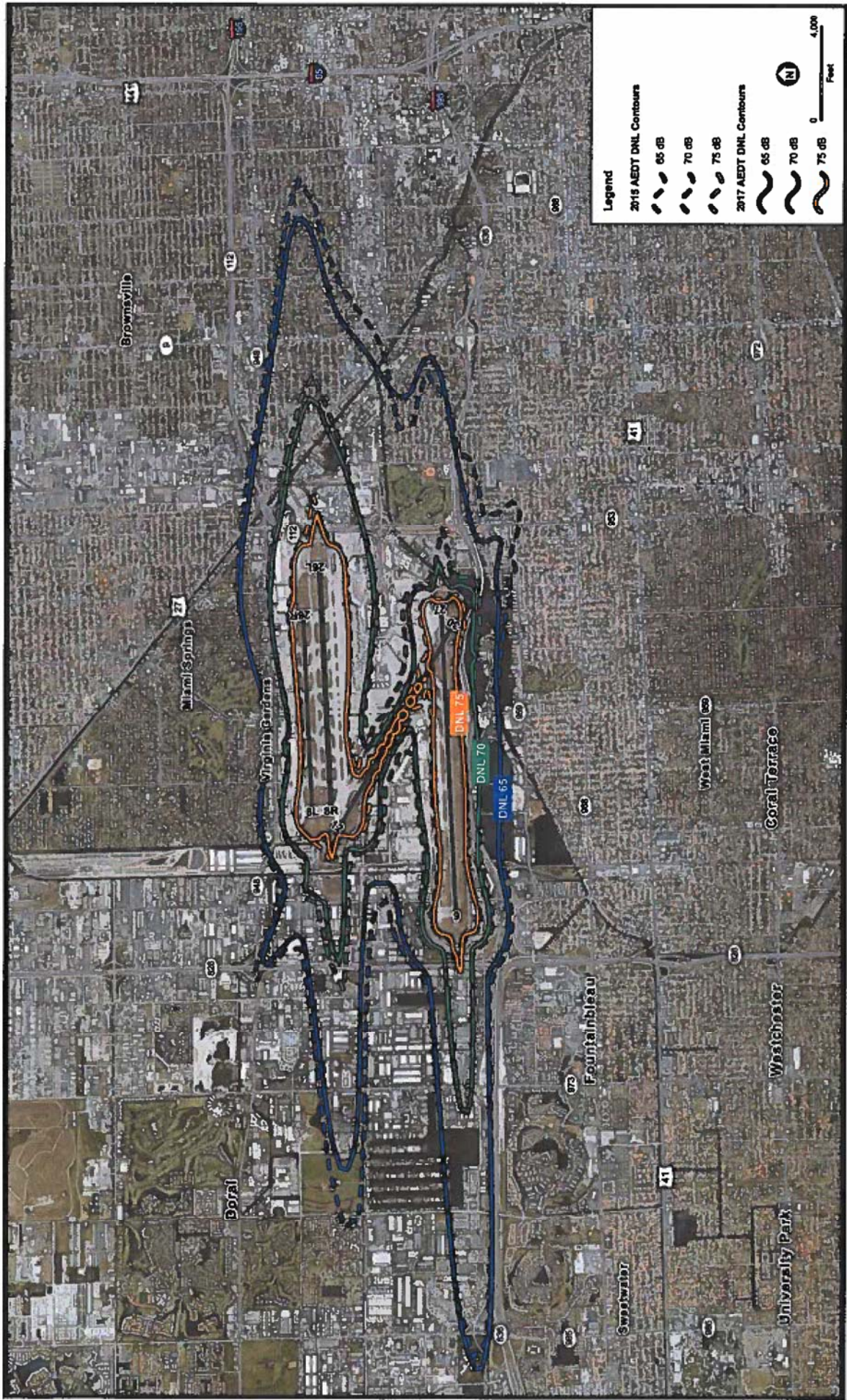


Figure 3 Miami International Airport Comparison Between Current and Proposed Noise Contours

Miami International Airport
 Scale: N.T.S. January 2019



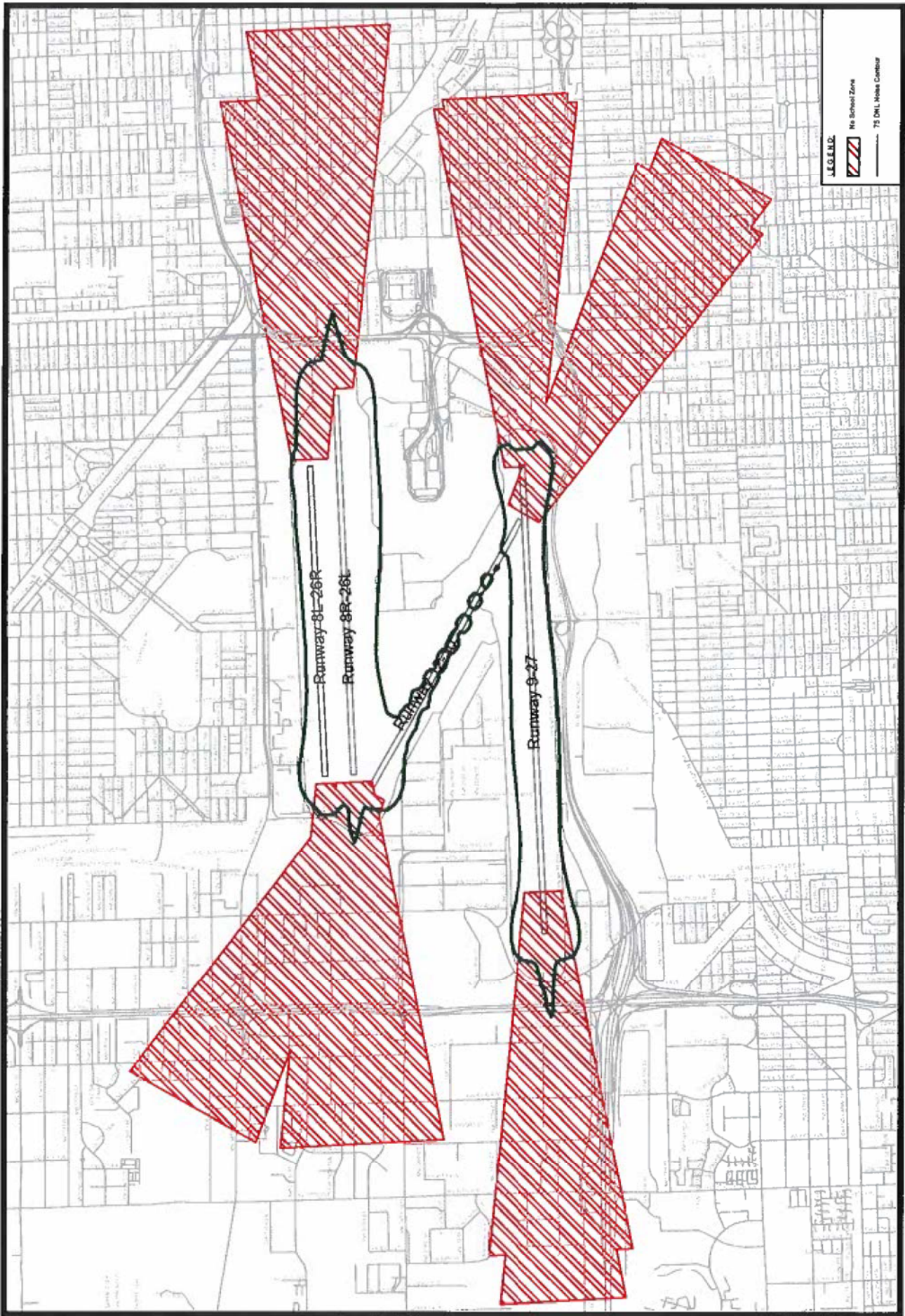
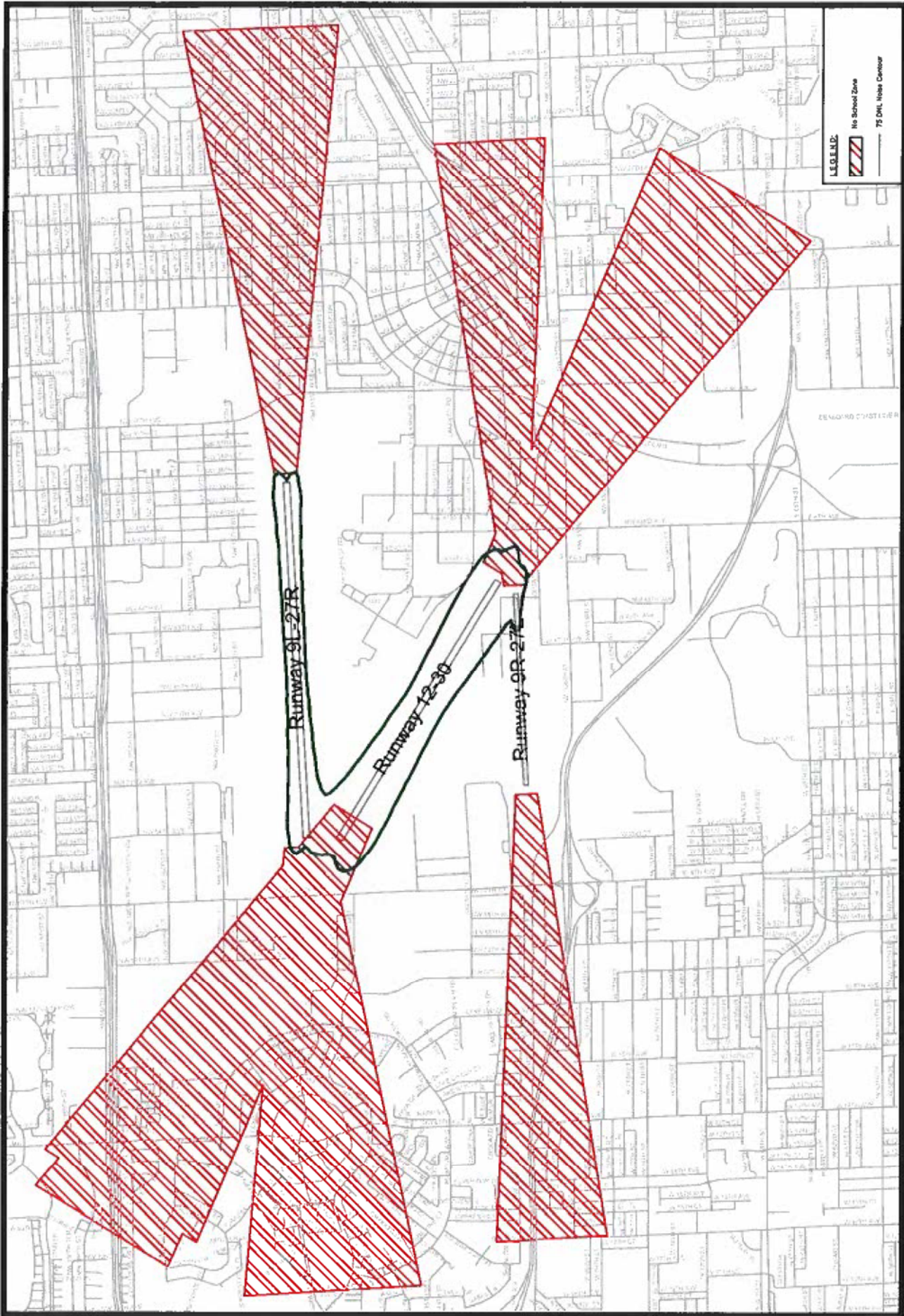


Figure 6 Miami International Airport
Proposed No School Zones

Miami International Airport
Scale: NTS
January 2019



Miami-Opa locka Executive Airport
 Scale: NTS
 January 2019

Figure 7 Miami-Opa Locka Executive Airport
 Proposed No School Zones

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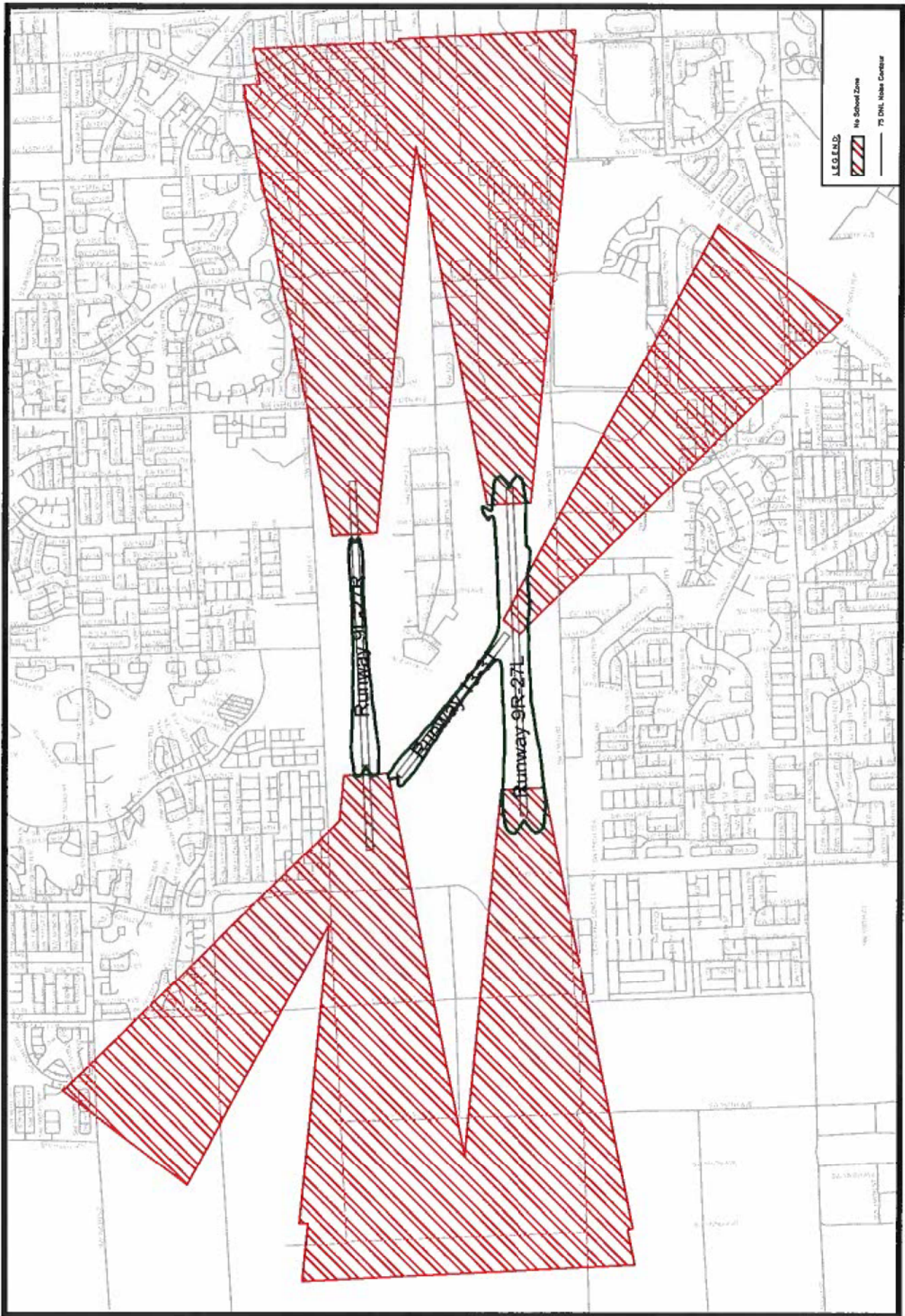
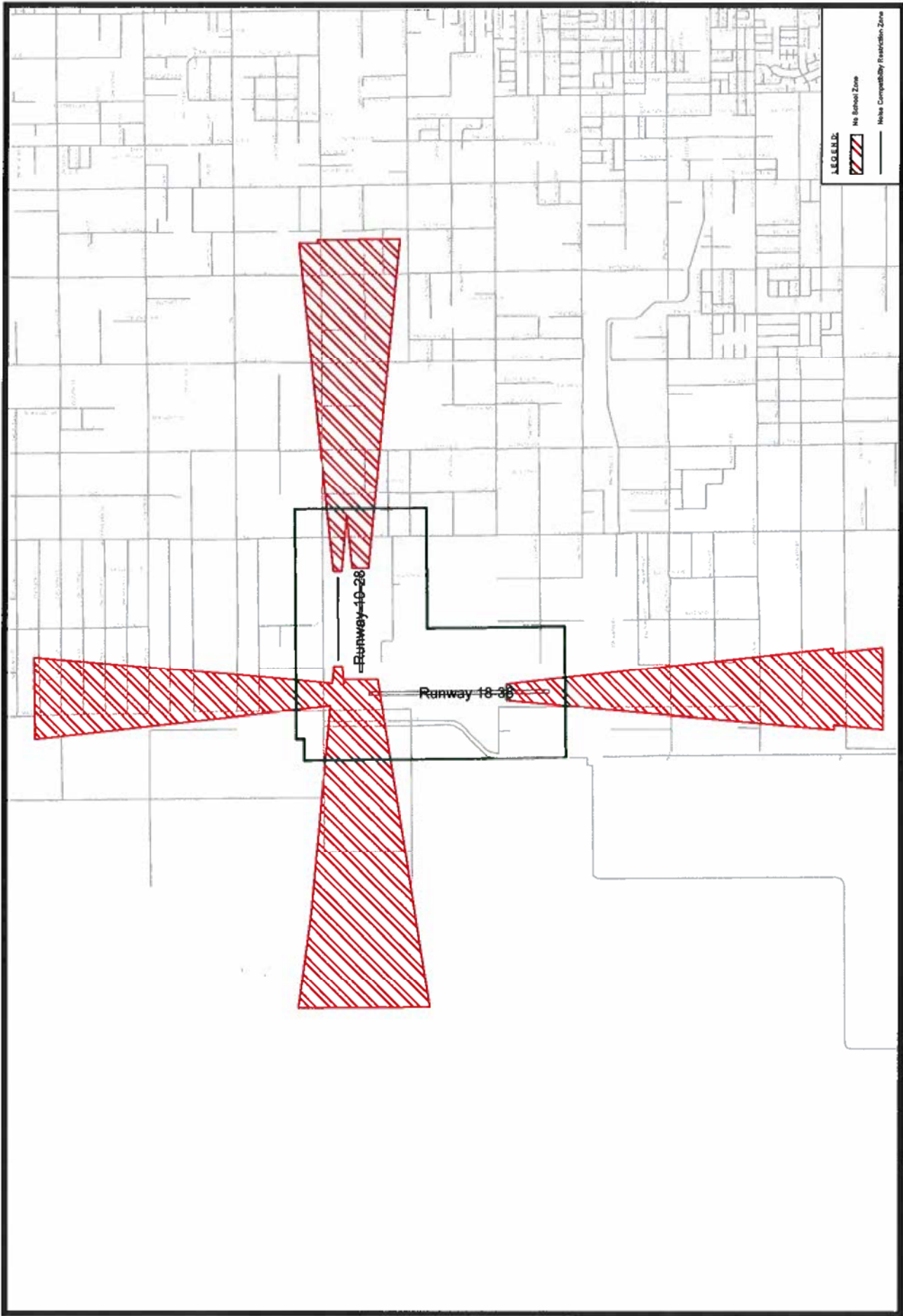


Figure 8 Miami Executive Airport
Proposed No School Zones

Miami Executive Airport

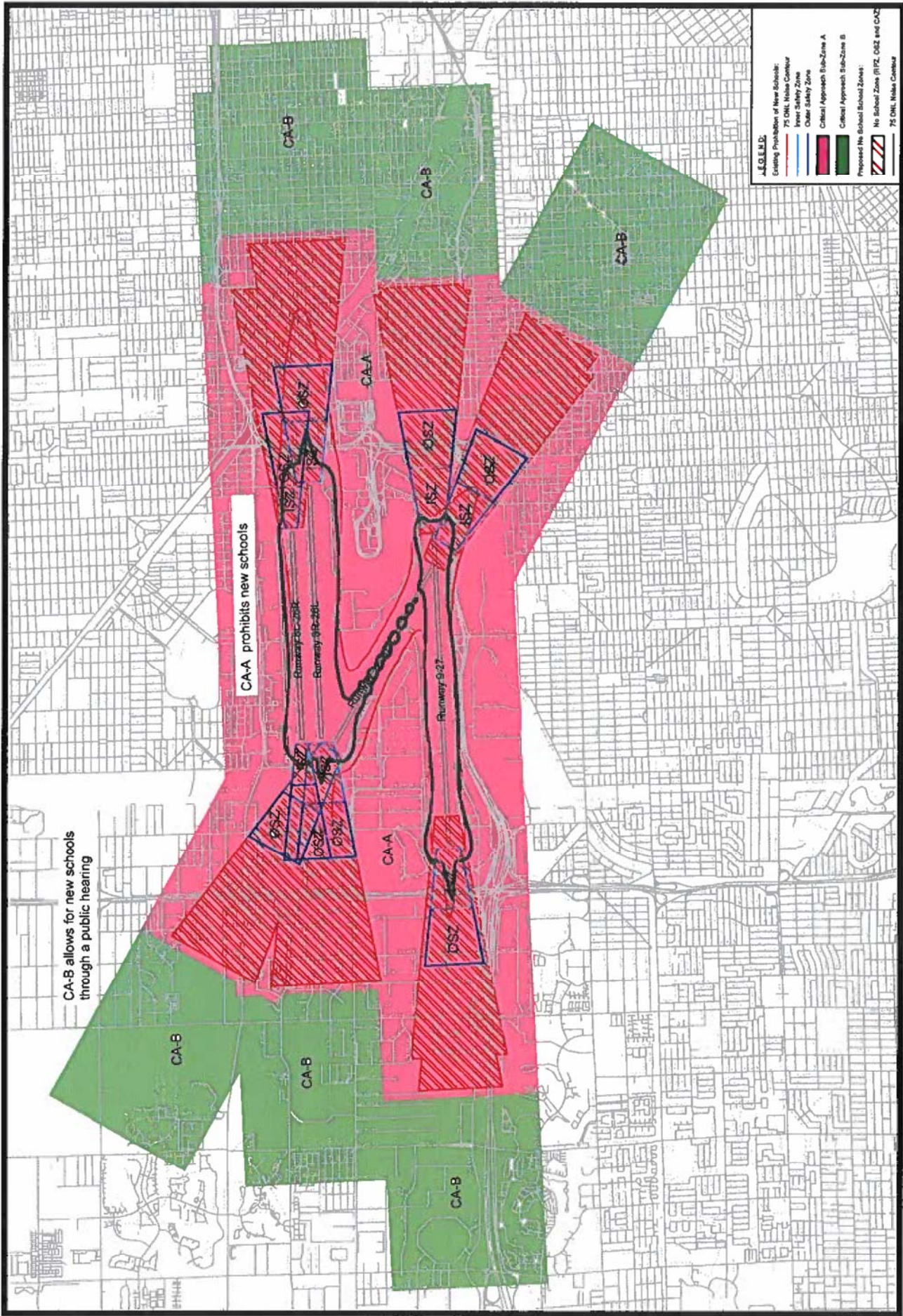
Scale: NTS

January 2019



Miami Homestead General Aviation Airport
 Scale: NTS
 January 2019

Figure 9 Miami Homestead General Aviation Airport
 Proposed No School Zones



LEGEND:

- Existing Prohibition of New Schools:
 - 75 OML Notes Contour
 - Inner Safety Zone
 - Outer Safety Zone
- Proposed No School School Zones:
 - Critical Approach Sub-Zone A
 - Critical Approach Sub-Zone B
 - No School Zone (RZ, OZ, DSZ and CAZ)
 - 75 OML Notes Contour

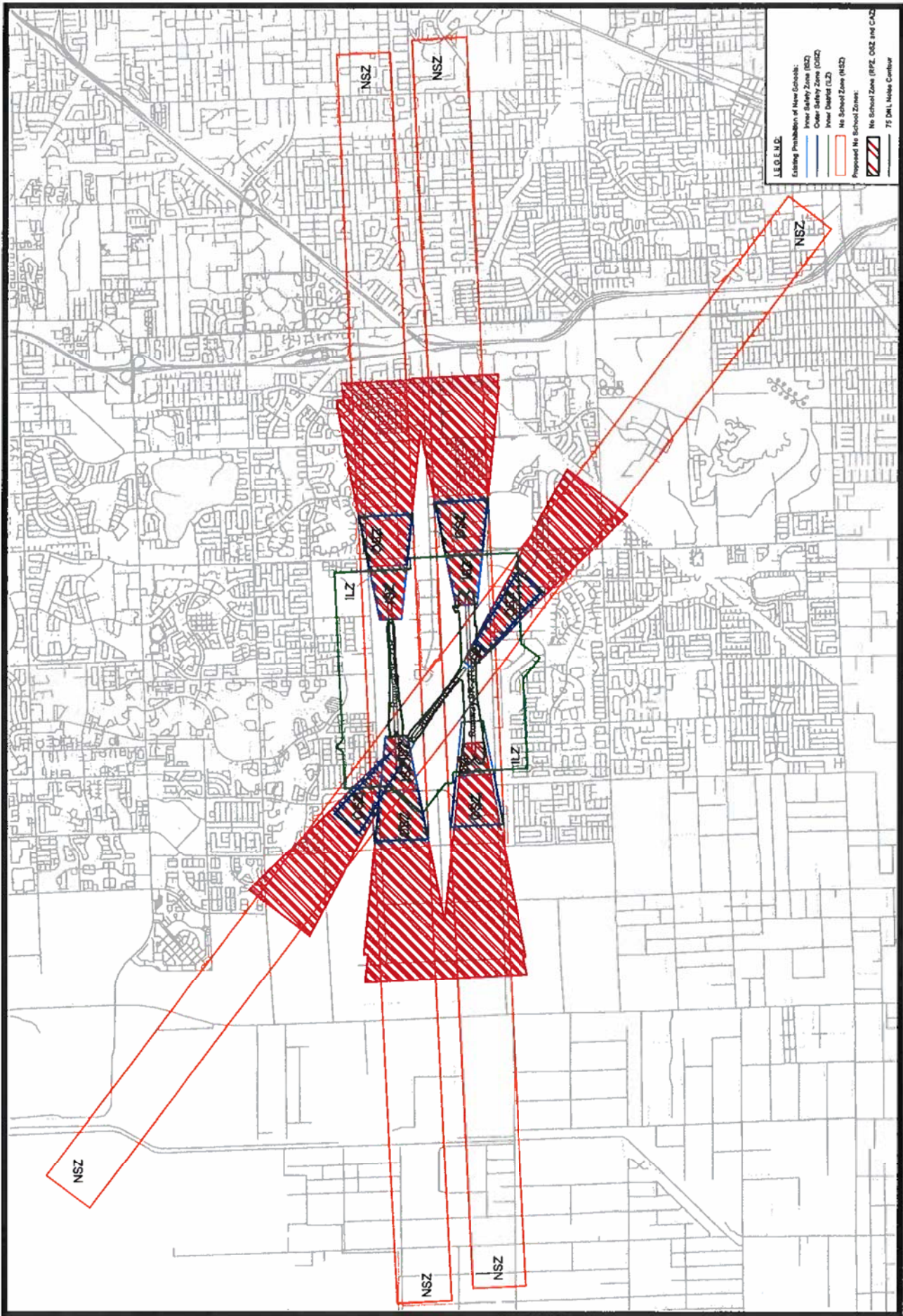
CA-B allows for new schools through a public hearing

CA-A prohibits new schools

Miami International Airport
Scale: NTS
January 2019

Figure 10 Miami International Airport Existing and Proposed No School Zones

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Miami Executive Airport
 Scale: NTS
 January 2019

Figure 11 Miami Executive Airport
 Existing and Proposed No School Zones

MIAMI-DADE COUNTY
 Aviation Planning Division

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MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: January 23, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 4(0)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(O)
1-23-19

ORDINANCE NO. _____

ORDINANCE RELATING TO AIRPORT ZONING REGULATIONS; CREATING ARTICLE XXXVII OF CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AIRPORT ZONING REGULATIONS APPLICABLE TO LAND IN AND AROUND ALL MIAMI-DADE COUNTY AIRPORTS; DELETING IN THEIR ENTIRETY ARTICLES XXXVII, MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING; XXXVIII, OPA LOCKA AIRPORT ZONING; XXXIX, HOMESTEAD GENERAL AVIATION AIRPORT ZONING; AND XL, KENDALL TAMiami EXECUTIVE AIRPORT ZONING, OF CHAPTER 33; DELETING SECTION 33-303.2; AMENDING SUBSECTION 33-314; ADOPTING NEW AIRPORT ZONING REGULATIONS FOR DEVELOPMENT ON AIRPORT PROPERTY AND FOR DEVELOPMENT ON SURROUNDING PROPERTIES IN DESIGNATED LAND USE AND NOISE COMPATIBILITY RESTRICTION ZONES AND IN AIRPORT HEIGHT RESTRICTION AREAS; ADOPTING PROCEDURE FOR REVIEW OF APPLICATIONS FOR DEVELOPMENT PERMITS AND PERMITS FOR TEMPORARY STRUCTURES, CRANES, AND EVENTS WITHIN LAND USE AND NOISE COMPATIBILITY RESTRICTION ZONES AND AIRPORT HEIGHT RESTRICTION AREAS; ADOPTING PROCEDURE TO OBTAIN VARIANCES FROM CERTAIN AIRPORT ZONING REGULATIONS; PROVIDING LEGISLATIVE INTENT, FINDINGS, PURPOSE, AND APPLICABILITY IN THE INCORPORATED AND UNINCORPORATED AREAS; PROVIDING DEFINITIONS; PROVIDING AIRPORT LAND USE MAPS AND FIGURES; PROVIDING FOR ENFORCEMENT; DIRECTING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TERMINATE CERTAIN INTERLOCAL AGREEMENTS REGARDING MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes set forth in the accompanying memorandum, a copy of which is incorporated herein by reference,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The Board ratifies and adopts the accompanying memorandum, as if fully set forth herein.

Section 2. Article XXXVII of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby deleted in its entirety and replaced with the following:¹

>>ARTICLE XXXVII. AIRPORT ZONING.

Sec. 33-330. Legislative Intent, Findings, Purpose, and Applicability in the Incorporated and Unincorporated Areas.

(A) Legislative intent, findings, and purpose.

- (1) The Board hereby declares and finds that the uncoordinated use of lands within the County in relation to the County's airport facilities threatens the orderly development and the health, safety, order, convenience, prosperity, and welfare of the present and future citizens of this County. The Board further finds that the Comprehensive Development Master Plan ("CDMP") was enacted to assure for all people of the County an attempt to create safe, healthful, productive, and aesthetically and culturally pleasing surroundings; to attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to the health or safety, or other undesirable and unintended consequences, to preserve important historic, cultural, and natural aspects of our national heritage; to maintain, wherever possible, an environment that supports diversity and variety of individual choice; to achieve a balance between population and resources which will permit the high standards of living and a wide sharing of life's amenities, and to enhance the quality of renewal resources and approach the maximum attainable recycling of depletable resources.**

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (2) Among the CDMP provisions designed to achieve these ends are goals, objectives, and policies to: ensure the provision of an integrated economic environment and community-sensitive and balanced system of air transportation, facilities, and services; maximize compatibility between airports and the surrounding communities; and maximize aviation's support of local and regional economic growth.
- (3) In furtherance of these goals, objectives, and policies, the Board finds that the coordinated review and analysis of its airport facilities and surrounding communities is necessary to carry on a central metropolitan government. Coordinated review and analysis of airport facilities and the surrounding communities' present and future land uses is susceptible to, and would be most effectively carried on, under a uniform plan of regulation applicable to the County as a whole. The planning of the efficient land use around the airports, combined with other plan implementation tools, can be effectively used in meeting social, economic, and environmental needs and in creating a major influence on metropolitan development patterns and lifestyles. The capability of an efficient, safe airport system and associated industry and businesses, acting in conjunction with other urban services, including public and private educational facilities, to establish general development trends, is well recognized.
- (4) A maximum coordination of the airport system requirements and land use policy decisions is therefore essential to optimize the role of the airport system as a potent tool for implementing the desired patterns of metropolitan development in the County. To this end, height restrictions within identified areas around airports were developed in coordination with the Federal Aviation Administration and the City of Miami. The height restrictions are at the maximums tolerable under the current state of aviation technology.
- (5) This Board further finds that the Florida Legislature has mandated the adoption of land use regulations by the County, as a political subdivision authorized to establish and operate airports within its territorial limits, to assure compatible land uses in the areas surrounding such airports. This Board acknowledges and adopts as its own those legislative findings in chapter 333, Florida Statutes, that

airport hazards and the incompatible use of land in airport vicinities should be prevented in the interest of the public health, public safety, and general welfare.

- (6) The purpose of these regulations is to provide both airspace protection and land uses compatible with airport operations; to promote the coordinated use of lands and foster an orderly development within the County; to protect the health, safety and welfare of the County's residents and visitors; to ensure the economic benefits and capacity of the County's system of airports; and to ensure compliance with all federal, state, and local aviation regulations.

(B) Applicability in the incorporated and unincorporated areas and to Miami-Dade County School Board facilities.

- (1) Notwithstanding the provisions of section 33-27 or any other provisions of this chapter to the contrary, the regulations in this article shall govern the airports owned by the County and managed by the Miami-Dade Aviation Department (MDAD) or its successor agency, and the incorporated and unincorporated areas as set forth in more detail in this article that surround such airports. The airports subject to this article are Miami International Airport (MIA); Miami Executive Airport (TMB); Miami-Opa Locka Executive Airport (OPF); Miami Homestead General Aviation Airport (X51); and any other County-owned or -operated airports that may be hereafter established. The regulations in this article shall not apply to, or govern, Dade-Collier Training and Transition Airport (TNT).

- (2) Pursuant to the authority granted in the Miami-Dade County Home Rule Charter, and in lieu of the interlocal agreements referenced in section 333.03(1)(b)(1), Florida Statutes, the regulations set forth in this article shall serve as minimum standards applicable to development in the incorporated areas, and shall be enforced by the applicable municipalities for development within their respective jurisdictions. In addition, this article shall apply to facilities that are approved and constructed pursuant to the authority of the School Board of Miami- Dade County, in accordance with section 1013.33, Florida Statutes, requiring the location of public educational facilities to be consistent with the County's comprehensive plan and implementing land development regulations, and the Interlocal Agreement for Public

Schools Facility Planning between Miami-Dade County and the School Board of Miami-Dade County, adopted pursuant to Miami-Dade County Resolution No. R-423-09, as may be amended.

- (3) In the event of a conflict with any other County or municipal land development regulations applicable to properties subject to this article, this article shall govern.
- (C) Figures and maps adopted and on file. This Board hereby adopts, approves, and ratifies all figures and maps referenced in this article, which maps and figures establish the boundaries of the land use compatibility restriction zones, noise compatibility restriction zones, airport height restriction areas, and other zones and sub-zones applicable to each airport. The maps and figures, full-scale copies of which are on file with the Department and MDAD, shall be applicable to and controlling of zoning for such zones and sub-zones.

Sec. 33-331. Definitions.

For purposes of this article, the following definitions shall apply:

- (1) Above Mean Sea Level (AMSL) shall mean the height or elevation of an object, relative to the average sea level datum. For the purposes of this article, the datum line for mean sea level measurements shall be the same as the datum line for the geoid-based North American Vertical Datum of 1988 (NAVD 88).
- (2) Aeronautical Study shall mean an FAA study, conducted in accordance with the standards of 14 C.F.R. part 77, subpart C, and FAA policy and guidance, regarding the effect of proposed construction or alteration on the operation of airport facilities and the safe and efficient use of navigable airspace.
- (3) Airport shall mean an area of land or water designed and set aside for the taking off and landing of aircraft and used or to be used in the interest of the public for such purpose.
- (4) Airport Elevation shall mean the established elevation of the highest point on the usable runway.
- (5) Airport Hazard shall mean an obstruction to air navigation that affects the safe and efficient use of navigable airspace or the operation of planned or existing airport or communication facilities.

- (6) Aviation-Related School shall mean any educational facility whose greater portion of curriculum is devoted to education or training in the science and art of flight and airports, including, but not limited to: the operation and construction of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports or other air navigation facilities; and flight instruction or subjects pertaining thereto.
- (7) Buildings for public assemblage shall mean the same as described and defined in section 33-17.
- (8) Department shall mean the Miami-Dade County Department of Regulatory and Economic Resources or successor department.
- (9) Development Permit shall mean any building permit, zoning permit or approval, subdivision approval, rezoning, certification, special exception, variance, certificate of appropriateness for historically designated property, or any other official action of the County or any municipality having the effect of permitting the development, alteration, use, or occupancy; or change of use or occupancy, of any land or structure.
- (10) Educational facilities shall mean any educational facilities established in accordance with Articles XA and XI of this chapter.
- (11) FAA shall mean the Federal Aviation Administration, or its successor agency.
- (12) Height shall mean the maximum vertical distance Above Mean Sea Level (AMSL) to the highest point of the structure or tree.
- (13) MDAD shall mean the Miami-Dade Aviation Department, or its successor agency.
- (14) MDAD Director shall mean the Director of MDAD, unless the context clearly indicates otherwise. MDAD Director shall also include the MDAD Director's designee.
- (15) Obstruction shall mean any of the following that exceed the federal obstruction standards contained in 14 Code of Federal Regulations (C.F.R.) part 77, subpart C:

- (a) an object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used in the process, and any permanent or temporary apparatus; or
- (b) the alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, lateral dimensions, and any equipment or materials used in the process.
- (16) RER Director shall mean the Director of the Department, unless the context clearly indicates otherwise. RER Director shall also include the RER Director's designee.
- (17) Runway shall mean the defined area on an airport prepared for landing and take-off of aircraft along its length.
- (18) Structure shall mean an object constructed, erected, altered, installed, or transported, including, but not limited to, buildings, flagpoles, lightning rods, parapets, antennas, spires, cell towers, roof-mounted equipment or appurtenances, derricks, draglines, cranes and other boom-equipped machinery, towers, signs, smokestacks, utility poles, power generation equipment, or overhead transmission lines, whether temporary or permanent.
- (19) Temporary event shall mean any tethered balloons, unmanned aircrafts, lasers, fireworks, kites, or similar objects, things, or occurrences.
- (20) Temporary structure or crane shall mean any structure, construction crane, or similar equipment that is not permanently put into place.
- (21) Tree shall mean tree or other flora, whether naturally occurring or placed by man or machine, whether temporary or permanent.

Sec. 33-332. Uses on Airport Property.

The CDMP policies and interpretative text governing airports provide for aviation, aviation-related, and non-aviation uses within airport property at designated locations. Accordingly, such uses shall be permitted at airports, as follows:

- (A) Aviation uses. Aviation uses shall be permitted on any land within airport property, subject to review and approval by MDAD. Aviation uses shall consist of all uses that are intrinsic to the

operation of an airport, including but not limited to the following:

- (1) Runways, taxiways, aprons, and support and maintenance facilities, including, without limitation, control towers, flight service stations, access roadways, fire station, storage facilities, aircraft maintenance facilities, hangars, fuel farms and fixed-base operators.
 - (2) Passenger terminals and ancillary facilities that serve the traveling public and employees of aviation uses, including, without limitation, offices, personal services, retail, restaurants, lodging, and car rental facilities where located within terminal buildings or other secured areas.
- (B) Aviation-related uses. Aviation-related uses shall be permitted on any land within airport property, subject to review and approval by MDAD. Aviation-related uses shall consist of uses that are ancillary to or supportive of aviation uses, including, without limitation, manufacturing, storage, office, and service uses that are ancillary to or supportive of aviation uses and that may be located outside passenger terminals or other secured areas.
- (C) Non-aviation uses – lands designated government property (GP district). The following non-aviation uses may be approved within airport properties on land designated for such uses in the CDMP and zoned GP outside of passenger terminals and other secured areas, provided that such uses are compatible with, and not disruptive of, airport operations occurring on such lands and in compliance with all applicable regulations of the FAA and other applicable law:
- (1) Lodgings, such as hotels and motels, subject to the standards of the BU-2 district.
 - (2) Office buildings, subject to the standards of the BU-2 district, except that such facilities shall not be permitted in concourses.
 - (3) Industrial uses such as distribution, storage, manufacturing, research and development, and machine shops, subject to the site development standards of the IU-1 zoning district.
 - (4) Agricultural uses, subject to the standards of the AU district.
 - (5) Retail, restaurants, and personal service establishments, subject to the standards of the BU-2 district.

- (D) Administrative Site Plan Review required. All non-aviation uses shall require administrative site plan review by the Department and shall be subject to the site plan review standards provided herein.
- (1) The purpose of the site plan review is to encourage logic, imagination, innovation, and variety in the design process and encourage the congruity of the proposed development and its compatibility with the surrounding area.
 - (2) Each non-aviation use shall comply with requirements of this chapter and other applicable law, including, but not limited to, FAA regulations, the current airport layout plan on file with MDAD governing permissible uses on the entire airport property, and the MDAD design guidelines.
 - (3) All development shall comply with the off-street parking requirements of this chapter, and with the landscaping requirements of chapter 18A.
 - (4) Required exhibits. The following exhibits shall be prepared by design professionals, such as architects and landscape architects, and submitted to the Department:
 - (a) Dimensioned site plans indicating, at a minimum, the following information:
 - (i) Existing zoning on the site and on adjacent properties.
 - (ii) The basic use, height (based on feet AMSL and to the highest point of the structure), bulk, and location of all buildings and other structures with setbacks.
 - (iii) Vehicular and pedestrian circulation systems including connection(s) to existing or proposed roadway and sidewalk system and the layout of parking, service, and loading areas.
 - (iv) Graphics and notations indicating the site planning or structure design methods used to minimize the impact of those industrial activities that could have a negative impact on existing or proposed adjacent land uses.
 - (v) Sketches of design elements to be used for buffering surrounding uses.

- (b) Elevation of the proposed buildings and other major design elements.
- (c) Landscape plans showing landscaping and trees in accordance with chapter 18A.
- (d) Figures indicating the following:
 - (i) Proposed uses.
 - (ii) Gross floor area (in square feet).
 - (iii) Land area:
 - Gross lot area (in square feet or acres).
 - Net lot area (in square feet or acres).
 - (iv) Landscaped open space (showing both required and provided open space, in both total square feet and as a percentage of net lot area).
 - (v) Trees (showing number of trees provided and required).
 - (vi) Off-street parking spaces (showing number spaces provided and required).
- (5) Review Criteria. The following shall be considered in the plan review process:
 - (a) Planning studies: Planning studies approved by the Board that include development patterns or environmental and other design criteria shall be considered in the plan review process.
 - (b) Landscape: Landscape shall be preserved in its natural state insofar as is practicable by minimizing removal of existing vegetation. Landscape shall be used to shade and cool, enhance architectural features, relate structure design to the site, visually screen noncompatible uses, and ameliorate the impact of noise.
 - (c) Compatibility: The architectural design and scale of the proposed structures shall be compatible with surrounding existing or proposed uses or shall be made compatible by the use of screening elements. Screening elements can include such devices as trees and shrubs, walls and fencing, berming or any combination of these elements. Visual buffering

shall be provided between parking and service areas and adjacent noncommercial uses.

- (d) Emergency access: Unobstructed on-site access for emergency equipment shall be considered.
- (e) Circulation: Internal vehicular and pedestrian circulation systems shall be designed to function with existing and/or approved systems outside the development. Vehicular traffic generated from the industrial activity should be routed in such a manner as to minimize impact on residential development.
- (f) Energy conservation: Applicants shall comply with the Energy Conservation Standards set forth in sections 553.951-553.975, Florida Statutes.
- (g) Visual screening for decorative walls: To prevent graffiti vandalism, the following options shall be utilized for walls abutting zoned or dedicated rights-of-way:
 - (i) Wall with landscaping. The wall shall be setback 2½ feet from the right-of-way line, and the resulting setback area shall contain a continuous landscaped buffer, which shall be maintained in a good, healthy condition. The landscape buffer shall contain one or more of the following planting materials:
 - (1) Shrubs. Shrubs shall be a minimum of 3 feet in height when measured immediately after planting and shall be planted and maintained to form a continuous, unbroken, solid, visual screen within one year after time of planting.
 - (2) Hedges. Hedges shall be a minimum of 3 feet in height when measured immediately after planting and shall be planted and maintained to form a continuous, unbroken, solid, visual screen within one year after time of planting.
 - (3) Vines. Climbing vines shall be a minimum of 36 inches in height immediately after planting.

- (ii) Metal picket fence. Where a metal picket fence abutting a zoned or dedicated right-of-way is constructed in lieu of a decorative wall, landscaping shall not be required.
- (h) Signage. Non-aviation uses shall comply with the signage requirements of article VI of this chapter and MDAD Design Guidelines, except that entrance features are not required to comply with section 33-112(a)(1), (g), (h) and (i).
- (6) Time for review. The Department shall review and approve or deny each submitted plan within 30 days from the date of submission. Denials shall be in writing and shall specifically set forth the grounds for denial. Applications that are deemed complete but that have not received a decision within 30 days shall be deemed approved.
- (7) Appeals. Notwithstanding any other the provisions of this chapter to the contrary, an aggrieved party may appeal an administrative site plan review decision to the Board in accordance with the procedures set forth in section 33-314 for appeals of administrative decisions. Appeals must be filed within 30 days of notice of the written decision or shall be deemed waived.

Sec. 33-333. Land Use Compatibility and Height/Airspace Regulations; Nonconforming Uses; Disclosures.

- (A) Land Use Compatibility Regulations. The objective of these land use compatibility regulations is to guide incompatible land uses away from airport environs and to encourage compatible land uses to locate around airport facilities. The land use compatibility regulations contained herein seek to address the impact of aircraft operations on surrounding uses, to safeguard the quality of life in the surrounding communities while increasing the efficiency of airports as economic generators. The following regulations shall apply to land uses occurring within the designated restriction zones established for the respective County airports and surrounding areas, as depicted on each airport's land use and noise compatibility restriction zones map:

(1) Land use compatibility restriction zones:

(a) Runway Protection Zone (RPZ).

- (i) The Runway Protection Zone (RPZ) is a trapezoidal area centered about the extended runway centerline that begins 200 feet beyond the end of runway, the dimensions of which shall be based on the type of aircraft and approach visibility minimum associated with that runway end. The FAA considers the RPZ as the most critical safety zone.
- (ii) Within the RPZ, new stormwater retention/detention facilities shall be permitted, following receipt of an opinion from the FAA. All other new buildings and structures, recreational uses, transportation facilities, fuel storage facilities, hazardous material storage, wastewater treatment facilities, and above-ground utility infrastructure proposed to be located within the RPZ shall only be permitted after review and approval by MDAD to assure compatibility with airport operations, following receipt of an opinion from the FAA.
- (iii) Uses prohibited in the Outer Safety Zone (OSZ) and Critical Approach Zone (CAZ) shall also be prohibited in the RPZ.
- (iv) In no event shall these prohibitions be varied.

(b) Outer Safety Zone (OSZ).

- (i) The Outer Safety Zone (OSZ) is a trapezoidal area extending outward from the RPZ to a point that is 5,200 feet from the runway end.
- (ii) Within the OSZ, new residential construction, educational facilities, hospitals, religious facilities, and other buildings for public assemblage, shall be prohibited. In no event shall these prohibitions be varied with respect to Miami International Airport. It is provided, however, that aviation-related schools, hotels and motels and their ancillary uses, and structures used in connection with public transportation shall not be subject to this prohibition.

(iii) Uses prohibited in the Critical Approach Zone (CAZ) shall also be prohibited in the OSZ.

(c) Critical Approach Zone (CAZ): The Critical Approach Zone (CAZ) is a trapezoidal area extending outward from the RPZ to a point that is 10,200 feet from the runway end. The following uses shall be prohibited within this zone:

(i) Hospitals, stand-alone emergency rooms, urgent care facilities, skilled nursing facilities, assisted living facilities, adult day care facilities, day nurseries, and educational facilities, excluding aviation-related schools. In no event shall the prohibition on educational facilities be varied.

(ii) Establishments or uses that emit smoke, gases, or dust in quantities or densities sufficient to jeopardize the safe use of the airport. In no event shall these prohibitions be varied.

(iii) Establishments or uses that create electrical interference with radio communications between the airport and aircraft; make it difficult for aircraft pilots and tower control operators to distinguish between airport lights, aircraft and others; result in glare in the eyes of aircraft pilots using the airport, or tower control operators; impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off, or maneuvering of aircraft. In no event shall these prohibitions be varied.

(iv) Landfills, as defined in section 403.703, Florida Statutes; and any associated uses that attract or sustain birds and bird movements. In no event shall these prohibitions be varied.

(2) Noise compatibility restriction zones:

(a) 75 DNL Zone.

(i) The 75 DNL Zone is a contour depicting concentrations of aircraft noise around an airport based on day and night noise levels

averaged over a year at 75 decibels and greater.

- (ii) New residential construction and educational facilities, excluding aviation-related schools, are prohibited within this zone.

(b) 65-to-74 DNL Zone.

- (i) The 65-to-74 DNL Zone is a contour depicting concentrations of aircraft noise around an airport based on day and night noise levels averaged over a year at 65-to-74 decibels.

- (ii) All new uses shall incorporate at least a 25 decibel outdoor-to-indoor Noise Level Reduction (NLR) into design and construction.

(c) X51 Noise Compatibility Restriction Zone.

- (i) Notwithstanding any other provision to the contrary, for Miami Homestead General Aviation Airport (X51), the 75 DNL Zone and 65-to-74 DNL Zone shall not apply. Instead, the noise compatibility restriction zone for X51 shall be provided in accordance with section 333.03(2)(d), Florida Statutes.

- (ii) Pursuant to Florida law, new residential construction and educational facilities, excluding aviation-related schools, are prohibited within this zone.

- (3) Divided parcel in land use or noise compatibility restriction zones. Where a single parcel of land is partially located in one or more land use or noise compatibility restriction zones, development on each portion of the parcel remains subject to the land use or noise compatibility regulations applicable to that portion.

(4) Land use or noise compatibility restriction zone disclosure.

(a) Definitions. As used in this section, the term:

- (i) Affected Land means any parcel of land that is located wholly or partially within the RPZ, OSZ, CAZ, 75 DNL Zone, or 65-to-74 DNL Zone, as defined in this section.

- (ii) Interest in real property means a non-leasehold, legal, or equitable estate in land, or any severable part thereof, created by deed, contract, mortgage, easement, covenant, or other instrument.
 - (iii) Purchaser means a buyer, transferee, grantee, donee, or other party acquiring an interest in real property.
 - (iv) Real property transaction means the sale, grant, conveyance, mortgage, or transfer of an interest in real property.
 - (v) Seller means a transferor, grantor, donor, or other party conveying an interest in real property.
- (b) Disclosure statement requirement. Prior to the execution of any instrument committing the Purchaser to acquire title to, or any other interest in, any Affected Land, the Seller shall provide the Purchaser with the following statement, which shall be set forth on a separate sheet of paper and shall be signed and dated by the prospective Purchaser on the date received:
LAND INVOLVED IN THIS TRANSACTION IS LOCATED WITHIN AN AIRPORT LAND USE AND/OR NOISE COMPATIBILITY RESTRICTION ZONE AS ESTABLISHED IN CHAPTER 33, ARTICLE XXXVII OF THE CODE OF MIAMI-DADE COUNTY. THIS DESIGNATION APPLIES TO PROPERTIES THAT ARE LOCATED IN CLOSE PROXIMITY TO A COUNTY AIRPORT AND MAY BE IMPACTED BY FLIGHT OPERATIONS. SUCH IMPACTS MAY INCLUDE, BUT ARE NOT LIMITED TO, NOISE, VIBRATION, ODORS, DUST, AND FUMES. USE OF PROPERTY LOCATED WITHIN THE AIRPORT LAND USE COMPATIBILITY RESTRICTION ZONE IS SUBJECT TO COMPLIANCE WITH ARTICLE XXXVII (AIRPORT ZONING) OF THE CODE OF MIAMI-DADE COUNTY.
- (c) Acknowledgment of airport land use restriction area disclosure statement on instrument of conveyance. The Seller shall ensure that the following statement

appears in a prominent location on the face of any instrument conveying title to, or any other interest in, any Affected Land. Such statement must be signed by the Purchaser, notarized, and recorded with the Clerk of the Court:

I HEREBY CERTIFY THAT I HAVE READ, UNDERSTAND, AND HAVE SIGNED THE AIRPORT LAND USE AND/OR NOISE COMPATIBILITY RESTRICTION ZONE DISCLOSURE STATEMENT FOR THE SALE OF, OR OTHER TRANSACTION INVOLVING, THIS PARCEL OF AFFECTED LAND AS REQUIRED BY SECTION 33-333 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA.

(d) Penalties. Any Seller who violates any provision of this section, or fails to comply therewith, or with any lawful rule, regulation, or written order promulgated under this section, shall be subject to the penalties, civil liability, attorney's fees, and enforcement proceedings set forth in article I of this chapter, and to such other penalties, sanctions, and proceedings as may be provided by law. Miami-Dade County shall not be held liable for any damages or claims resulting from the Seller's failure to comply with provisions of this section.

(B) Height/Airspace Regulations. The objective of these height/airspace regulations is to ensure that airspace in Miami-Dade County is safe, navigable, and free of obstructions.

(1) Airport height restriction zones. Airport height restriction zones are established for each airport, as depicted on the "Airport Height Restriction Zone Map" adopted in this article for each respective airport. All uses of land within airport height restriction zones shall be subject to the following restrictions, and except as otherwise provided in this section, these restrictions shall not be varied.

(a) Imaginary surfaces. The imaginary surfaces that control the airport height restriction zones are established in accordance with FAA Rule 14 CFR Part 77 (Safe, Efficient Use and Preservation of the Navigable Airspace) and the United States Standard for Terminal Instrument Procedures (TERPS).

Airport height controlling surfaces are defined as follows:

- (i) Primary Surface (P) means a surface longitudinally centered on a runway and extending 200 feet beyond each end of that runway. The elevation of any point on a primary surface is the same as the elevation of the nearest point on the runway centerline.

- (ii) Approach Surface (IA and NA) means a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end, as follows:
 - (1) Instrument Approach Surface (IA) refers to runways with instrument landings and takeoffs (instrument approach/runway).
 - (2) Non-Instrument Approach Surface (NA) refers to runways without instrument landings and takeoffs (non-instrument approach/runway).

- (iii) Transitional Surface (TR) means a surface that extends outward and upward at right angles to the runway centerline and the runway centerline extended from the sides of the Primary Surface and from the sides of the Approach Surfaces at a slope of 7 to 1.

- (iv) Horizontal Surface (HZ) means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs from the center of each end of the Primary Surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The horizontal surface does not include the Primary, Approach, or Transition Surfaces.

- (v) Conical Surface (CN) means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1.
 - (vi) Miami International Airport - High Structure Set-Aside Area (MIA-HSA) provides for tall buildings and other structures that may be permitted with limited impact on the capacity and operation of Miami International Airport (MIA). The MIA-HSA is comprised of surfaces with different height restrictions. The MIA-HSA embraces and includes all of the land and water lying within that portion of the City of Miami, Florida depicted in Figure 3 in section 33-337. In the event of a conflict with any other imaginary surface specified within this article, the permissible height of the MIA-HSA shall govern.
 - (vii) Airport Height Variance Eligible Areas (HVEA) are the areas surrounding airports where variances of the applicable height restrictions may be applied for in accordance with this article. The Miami International Airport - Height Variance Eligible Area (MIA-HVEA) constitutes the areas located to the north and south of Miami International Airport, as depicted in Figure 4, in section 33-337. The HVEAs for Miami Executive Airport, Opa Locka Executive Airport, and Miami Homestead General Aviation Airport are depicted in figures set forth in sections 33-338, 33-339, and 33-340, respectively.
- (2) Violations; airport hazards. Except as otherwise provided in this article, any structure or tree that is erected or increased above the height of the applicable controlling surface shall be considered an airport hazard and shall be deemed a violation of this article.
- (3) Permits; review and issuance. Except as otherwise provided in this article, no development permit for any structure or tree (whether permanent or temporary, natural or man-made) to be erected, planted, located, or otherwise established

within an airport height restriction area shall be issued unless such development permit has been reviewed and approved in accordance with and for compliance with this subsection.

- (C) Nonconforming uses or structures. This article shall not be construed to require the removal, lowering, or other change or alteration of any obstruction that was legally established prior to April 19, 2019, or otherwise interfere with the continuance of any legally established nonconforming use or structure, except as provided herein, and subject to the following requirements. It is provided, however, that notwithstanding any provisions of this code authorizing the alteration or improvement of a nonconforming use or structure, no obstruction shall be permitted to become a greater hazard to air navigation than it was when it was legally established. It is further provided that notwithstanding any provisions of this code, nothing herein shall be construed to limit the authority of the Director or MDAD to require or effectuate the trimming or removal of any tree or other object of natural growth that the Director or MDAD determines is a hazard to air navigation.
- (1) For purposes of this article, a “nonconforming use” means a use or structure that does not conform to the requirements of this article. Only legally established nonconforming uses shall have rights under this article. The provisions of this subsection (2)(e) shall supersede in the event of a conflict with section 33-35 or any other provisions of this chapter to the contrary addressing nonconforming uses or structures.
 - (2) Any permit or variance approving the alteration or improvement of a nonconforming use or structure shall require the owner of the obstruction to install, operate, and maintain thereon, at his or her own expense, marking and lighting in conformance with the specific standards established by the FAA.
 - (3) Whenever the appropriate building, zoning, or other County or municipal official determines that a legally established nonconforming obstruction has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, a permit or variance may not be approved if it would allow the obstruction to exceed the applicable height limit or otherwise deviate from the airport protection zoning regulations.

- (4) Whether or not an application to approve the continuation of a nonconforming use or structure is made under this article, the owner of the nonconforming obstruction may be required, at his or her own expense, to lower, remove, reconstruct, alter, or equip such obstruction with marking and lighting in conformance with the specific standards established by the FAA, as may be necessary to conform to the requirements of this article. If the owner of the nonconforming obstruction neglects or refuses to comply with such requirement for 10 days after notice, the appropriate building, zoning, or other County or municipal official may proceed to have the obstruction so lowered, removed, reconstructed, altered, or equipped and assess the cost and expense thereof upon the owner of the obstruction or the land whereon it is or was located.
- (5) Notwithstanding any other provision to the contrary, the land use restrictions for Land Use Compatibility Restriction Zones and Noise Compatibility Restriction Zones shall not be construed to require the removal, alteration, sound conditioning, or other change, or to interfere with the continued use or adjacent expansion of, any educational facility or site in existence on July 1, 1993. Such educational facilities and sites in existence on July 1, 1993, shall not be considered nonconforming uses or structures.

Sec. 33-334. Procedure for Review of Applications for Development Permits and Permits for Temporary Structures, Cranes, and Events within Land Use and Noise Compatibility Restriction Zones and Airport Height Restriction Zones.

- (A) *Applicability.* This section shall govern the review of applications in incorporated and unincorporated areas of the County for: development permits within land use and noise compatibility restriction zones and airport height restriction zones; and permits for temporary structures, cranes, and events in airport height restriction zones.
- (B) *Airspace review.*
- (1) *Airspace review thresholds.* To ensure compliance with the airport height restriction area regulations, no permit for any structures exceeding the following thresholds shall be granted by the County, any municipality, or the School Board until the proposed development or temporary

structure, crane, or event has been reviewed and approved for compatibility with airport operations by MDAD and, where applicable, the FAA in accordance with the following:

- (a) Any construction or alteration exceeding 200 feet above ground level;
 - (b) Any permanent construction or alteration within the airspace review area of each of the airports; and
 - (c) Any temporary structure, crane, or event exceeding an imaginary surface extending outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of a County airport.
- (2) *Airspace review submittal requirements.* All permit applications to be reviewed by MDAD pursuant to this article shall be in accordance with MDAD prescribed guidelines for submittals, shall be submitted in a form approved by the Director or MDAD, and shall include the following information where applicable, as determined by MDAD:
- (a) Project name;
 - (b) Property address/location and folio number(s);
 - (c) Proposed use;
 - (d) Duration of the project;
 - (e) For temporary structures, cranes, or events, proof of FAA approval shall be required in all instances;
 - (f) For temporary structures and cranes, all required GPS coordinates (in degrees, minutes, and second/State Plane North American Datum – NAD 83), cross streets;
 - (g) For temporary events, the GPS coordinates in NAD 83 where the event will be located, operated, sited, installed, launched or otherwise used, height to tallest reasonably anticipated point of the temporary event; and

- (h) For temporary structures and cranes, proof of MDAD's approval of the permanent, underlying structure with which the temporary crane is associated.
- (C) Permits for properties located within the land use and noise compatibility restriction zones.
 - (1) Permits issued by municipalities or the School Board of Miami-Dade County. Where the application complies with the airport height regulations set forth in this article, municipal or School Board officials shall be responsible for reviewing all applications for development permits and applications for permits for temporary structures, cranes, and events within their jurisdiction for compliance with land use and noise compatibility restriction zones. The RER Director or the MDAD Director may take enforcement action in accordance with section 33-336 where municipal or School Board permits are going to be, or have been, issued in contravention of this article.
 - (2) Permits issued by the County in the unincorporated area or where the County retains jurisdiction. Where the application complies with the airport height regulations set forth in this article, the RER Director and MDAD Director shall be responsible for reviewing all applications for development permits and applications for permits for temporary structures, cranes, and events in the unincorporated area or where the County retains jurisdiction for compliance with Land Use and Noise Compatibility Restriction Zones, prior to issuance of the permit.
- (D) Requirement to close FAA determination for temporary structure, crane, or event. To remove any temporary airspace restrictions imposed as a result of FAA determinations in connection with temporary structures, cranes or events, the applicant and the owner of the subject property shall be jointly and severally responsible for closing any applicable FAA determination upon completion of the temporary project or event. Failure to do so may subject the applicant or property owner to enforcement action in accordance with this article.

Sec. 33-335. Variances in the Incorporated and Unincorporated Areas or on School Board Property; Appeals.

Upon determination by MDAD or the applicable municipal or School Board official that the construction, alteration, or allowance of a structure, use, or tree constitutes a violation of this article in a land use compatibility restriction zone, the 65-to-74 DNL Zone, or within the Miami International Airport - Height Variance Eligible Area, a variance may be sought in accordance with the procedures below, except where the applicable regulations expressly prohibit variances. All applications for variances, whether the subject property is in the incorporated or unincorporated area or is School Board property, shall be submitted to MDAD for processing in accordance with this section. For purposes of this article, "variance" shall be synonymous with "permit," as that term is used in section 333.07, Florida Statutes.

- (A) Pre-application conference. Before submitting an application for a variance, the applicant shall participate in a pre-application conference with MDAD. The purpose of the pre-application conference is to ascertain the project's location and scope, advise the applicant of the information needed for submittal, and explain the evaluation process.
- (B) Application. Application for a variance shall be made on a form prescribed by the MDAD Director.
- (1) Applications shall include the required exhibits set forth in section 33-334(B).
- (2) Applications shall also include documentation showing compliance with the federal requirement for notification of the proposed project and a valid aeronautical evaluation of the project.
- (C) State review. Pursuant to section 333.025(4), Florida Statutes, MDAD shall, upon receipt, provide a copy of the complete application for a variance to the Florida Department of Transportation's aviation office by certified mail, return receipt requested, or by a delivery service that provides a receipt evidencing delivery. To evaluate technical consistency with chapter 333, Florida Statutes, the state shall have a 15-day review period following receipt of the application, which shall run concurrently with the County's variance process. Unless the state requests otherwise, cranes, construction equipment, and other temporary

structures in use or in place for a period not to exceed 18 consecutive months are exempt from the state's review.

(D) Determination. MDAD shall grant or deny applications for variances in accordance with the procedures, criteria, and requirements set forth herein and in chapter 333, Florida Statutes, as may be amended from time to time. Any variance may be subject to conditions necessary to effectuate the purposes of this chapter.

(E) Criteria. Variances from the regulations of this article shall only be granted where application or enforcement of such regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest. No variance shall be approved solely on the basis that the proposed structure or use will not exceed federal obstruction standards, or any other federal aviation regulation. In evaluating whether a requested variance would be contrary to the public interest, the following factors shall be considered to the extent applicable:

- (1) The safety of persons on the ground and in the air;
- (2) The safe and efficient use of navigable airspace;
- (3) The nature of the terrain and height of existing structures;
- (4) The effect of the construction or alteration on the state licensing standards for a public-use airport contained in chapter 330 of the Florida Statutes and the rules adopted thereunder;
- (5) The character of existing and planned flying operations and developments at the airport;
- (6) Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA;
- (7) The effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the airport;
- (8) Technological advances;
- (9) Land use density;
- (10) Public or private interest and investments; and

- (11) The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the Comprehensive Development Master Plan, and all other known proposed structures and uses in the area.
- (F) *Height variances limited.* Notwithstanding any other provisions of this article, a variance from the height restrictions of this article may only be applied for and obtained in the *Miami International Airport - Height Variance Eligible Area (MIA-HVEA)*, as defined in section 33-333, provided that the proposed structure or use meets applicable federal standards and regulations and has been approved by the Federal Aviation Administration.
- (G) *Obstruction marking and lighting required.* Notwithstanding any other provisions of this article, in granting any variances or any other authorization for any structure or use not expressly permitted herein, the owner of the structure or tree for which such authorization is being sought shall be required to install, operate, and maintain thereon, at the owner's sole expense, marking and lighting in conformance with the specific standards established by the FAA.
- (H) *Appeals.* MDAD shall issue a written determination approving or denying each variance application. Denials shall specify the grounds for denial. Any aggrieved party may appeal MDAD's decision to the Board of County Commissioners in accordance with the procedure established in section 33-314 for appeals of administrative decisions.

Sec. 33-336. Enforcement.

- (A) This article shall be enforceable in accordance with the provisions of: article I of this chapter; section 1-5 and chapter 8CC; and any applicable municipal regulations.
- (B) In addition to any other remedies available at law or in equity:
- (1) Certificates of occupancy or certificates of use shall be withheld until the County or municipality determines that a structure or use was legally established in accordance with this article; and
 - (2) Any development permit that is subject to this article and is issued without the written approval of MDAD shall be voidable.

(C) It is further provided that the RER Director or the MDAD Director are hereby authorized to appeal or commence appropriate legal action to prevent or challenge the issuance of a municipal or School Board permit for failure to comply with the requirements of this article.

Sec. 33-337. Miami International Airport (MIA).

(A) Non-aviation uses permitted on properties zoned GP at MIA. The minimum and maximum of land area devoted to particular non-aviation uses for those parcels designated as GP on Figure 1, full-scale copies of which are on file with MDAD and the Department, shall be as follows:

MIA NON-AVIATION AREA (±56.7 ACRES)

<u>Use</u>	<u>Minimum (acres)</u>	<u>Maximum (acres)</u>
<u>Commercial/Office</u>	<u>3</u>	<u>56.7</u>
<u>Hotel or Motel</u>	<u>0</u>	<u>56.7</u>
<u>Institutional</u>	<u>0</u>	<u>11</u>
<u>Industrial</u>	<u>11</u>	<u>56.7</u>
<u>Maximum Floor Area Ratio: 2.0</u>		

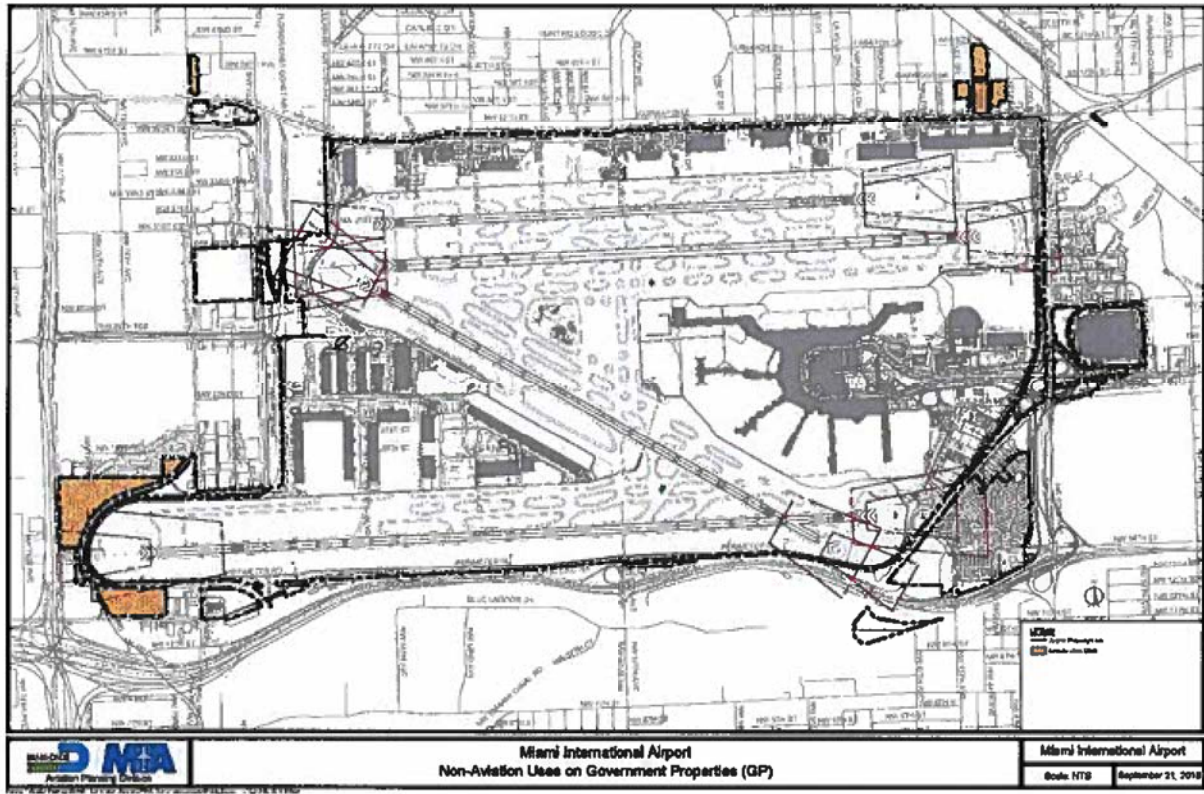


Figure 1 - Miami International Airport –
Non-Aviation Uses on GP Properties

(B) Land Use and Noise Compatibility Restriction Zones at MIA. Figure 2 depicts the land use and noise compatibility restriction zones for Miami International Airport.

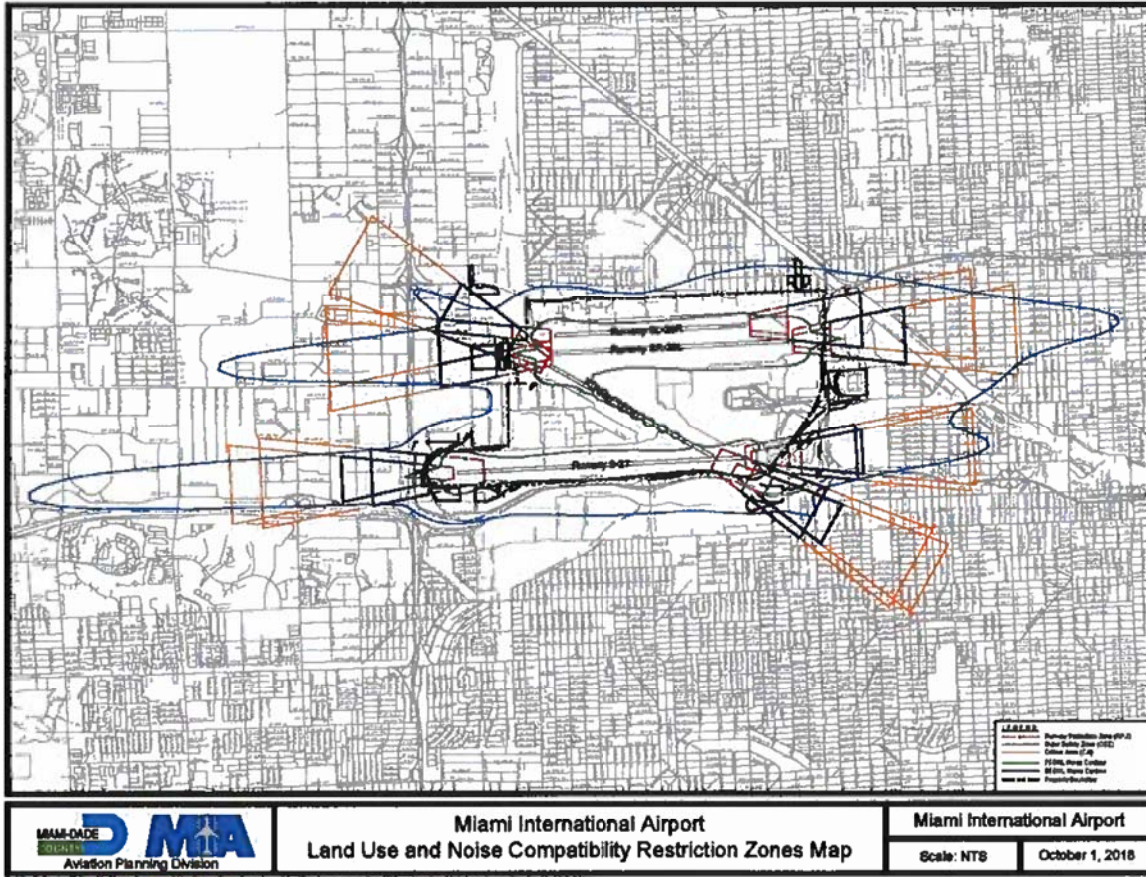


Figure 2. Miami International Airport –
Land Use and Noise Compatibility Restriction Zones

(C) Airport Height Restriction Zones. Figure 3 depicts the airport height restriction zones for Miami International Airport. Figure 3 also depicts the Miami International Airport - High Structure Set-Aside Area (MIA-HSA), which provides a maximum allowable height of 1,049 feet AMSL.

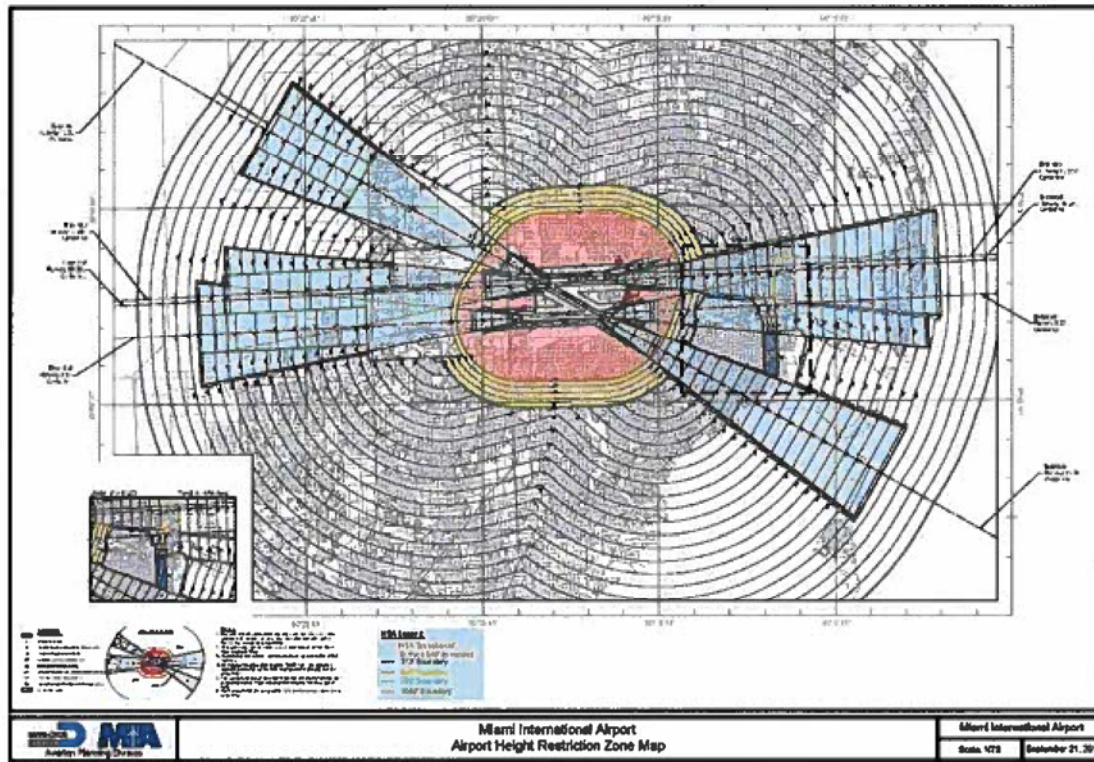


Figure 3. Miami International Airport –
Airport Heights Restriction Areas and MIA-HSA

(D) Height Variance Eligible Area. Figure 4 depicts the Miami International Airport - Height Variance Eligible Area (MIA-HVEA).

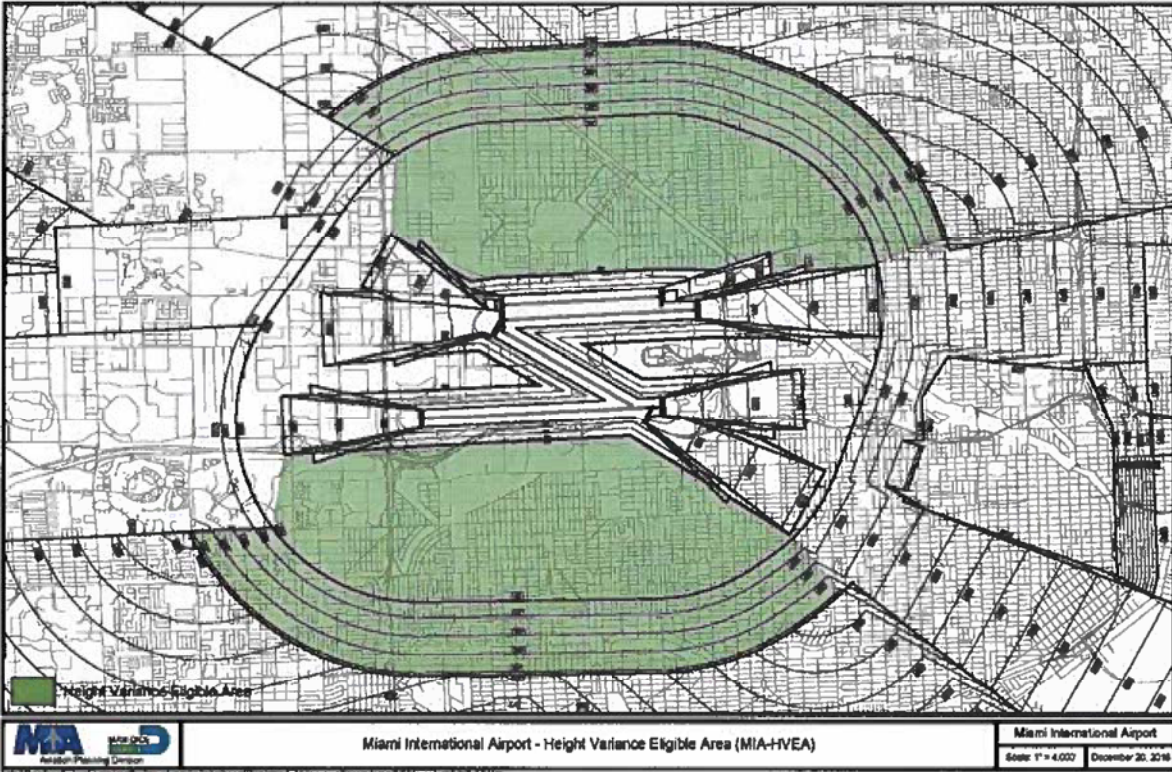


Figure 4. Miami International Airport –
Height Variance Eligible Area (MIA-HVEA)

(E) Airspace Review Area. Figure 5 depicts the airspace review area for permanent structures around Miami International Airport.

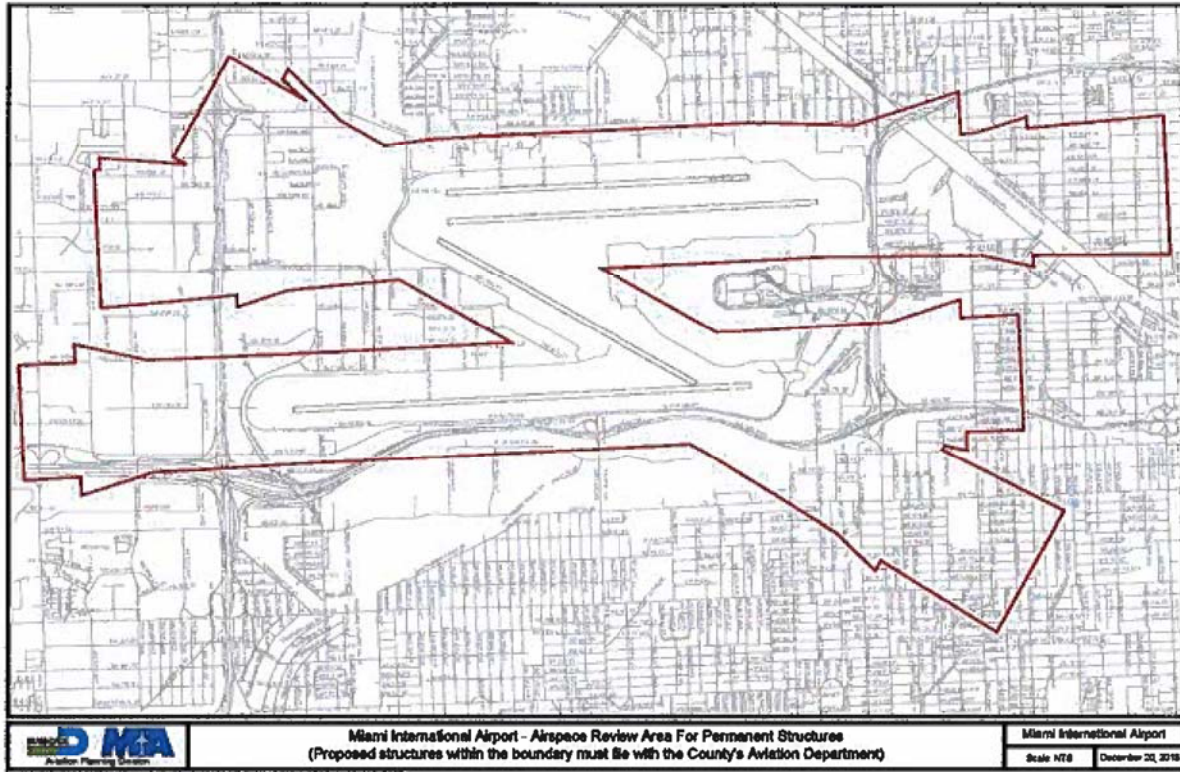


Figure 5. Miami International Airport - Airspace Review Area for Permanent Structures

Sec. 33-338. Miami Executive Airport (TMB)

(A) Non-aviation uses permitted on properties zoned GP at TMB. The minimum and maximum of land area devoted to particular non-aviation uses for those parcels designated as GP on Figure 6, full-scale copies of which are on file with MDAD and the Department, shall be as follows:

TMB Non-Aviation Uses Area (±43 Acres)

<u>Use</u>	<u>Minimum (acres)</u>	<u>Maximum (acres)</u>
<u>Industrial</u>	<u>0</u>	<u>37</u>
<u>Commercial</u>	<u>0</u>	<u>43</u>
<u>Office</u>	<u>0</u>	<u>11</u>
<u>Hotels/Motels</u>	<u>0</u>	<u>4</u>
<u>Institutional</u>	<u>0</u>	<u>9</u>
<u>Maximum Floor Area Ratio: 1.25</u>		

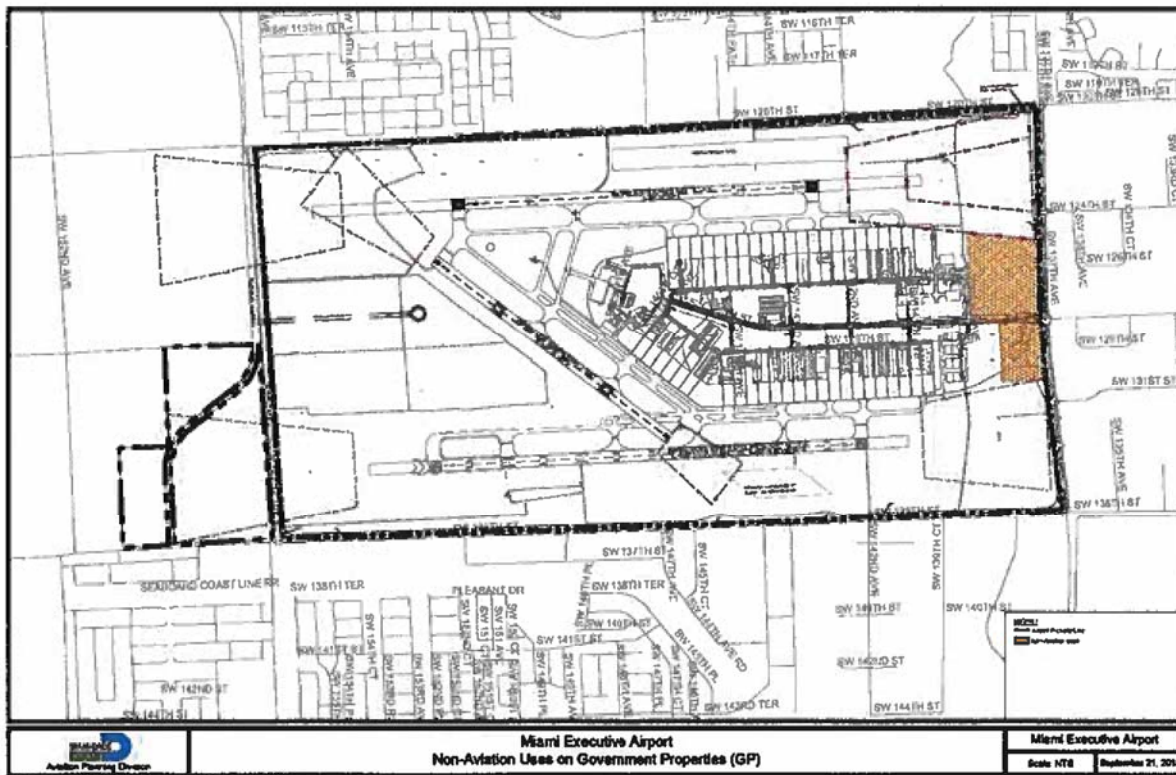


Figure 6 – Miami Executive Airport – Non-Aviation Uses on GP Properties

(B) Land Use and Noise Compatibility Restriction Zones at TMB. Figure 7 depicts the land use and noise compatibility restriction zones for Miami Executive Airport.

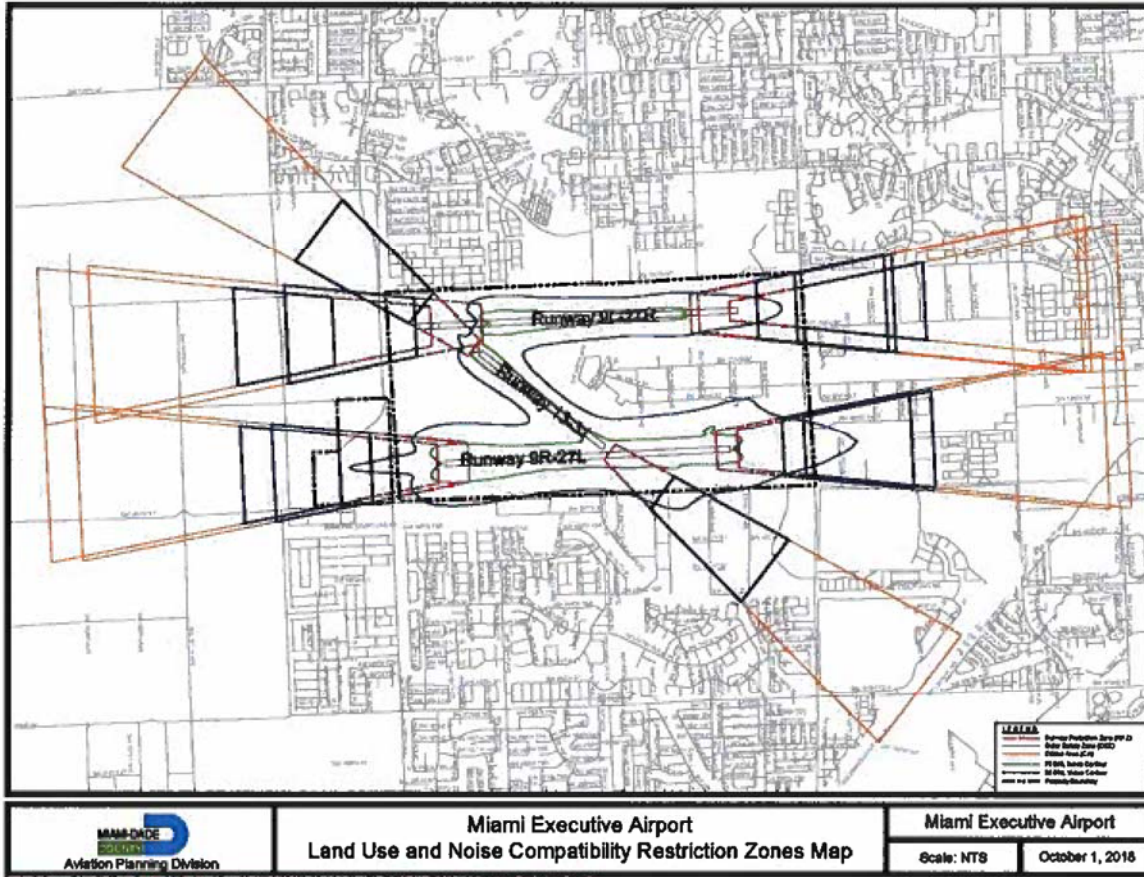


Figure 7. Miami Executive Airport –
Land Use and Noise Compatibility Restriction Zones Map

(D) Height Variance Eligible Area. Figure 9 depicts the Miami Executive Airport - Height Variance Eligible Area (TMB-HVEA).

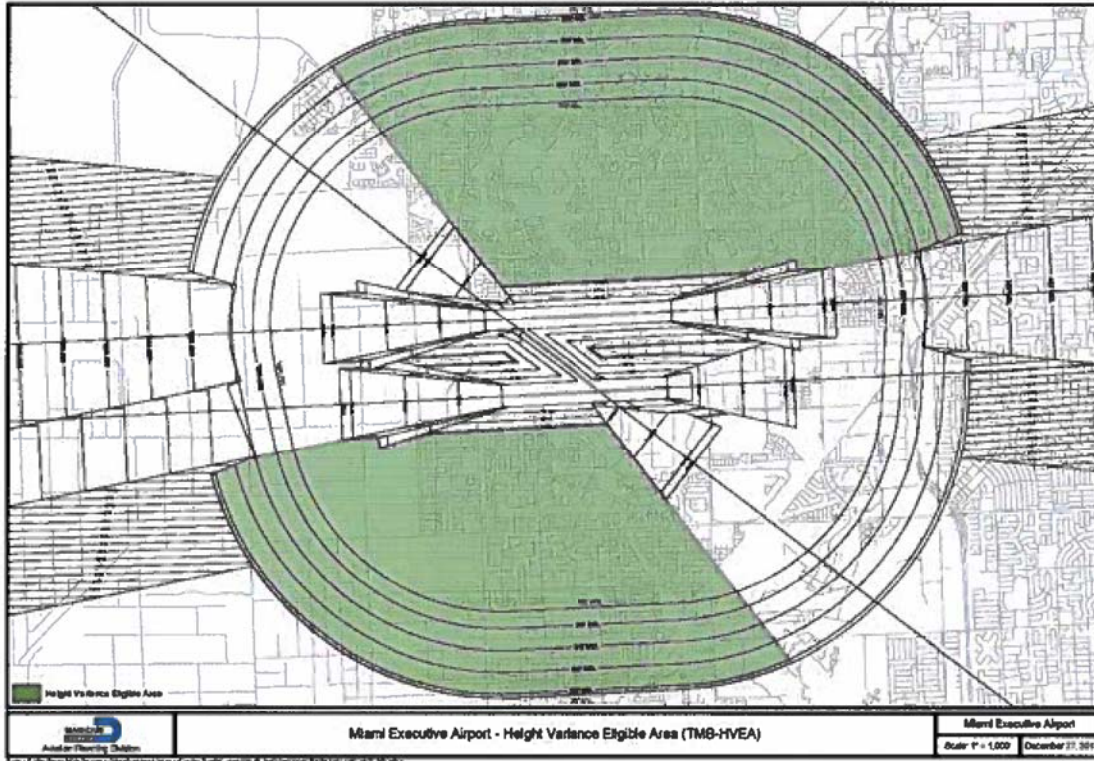


Figure 9. Miami Executive Airport –
Height Variance Eligible Area (TMB-HVEA)

(E) Airspace Review Area. Figure 10 depicts the airspace review area for permanent structures around Miami Executive Airport.

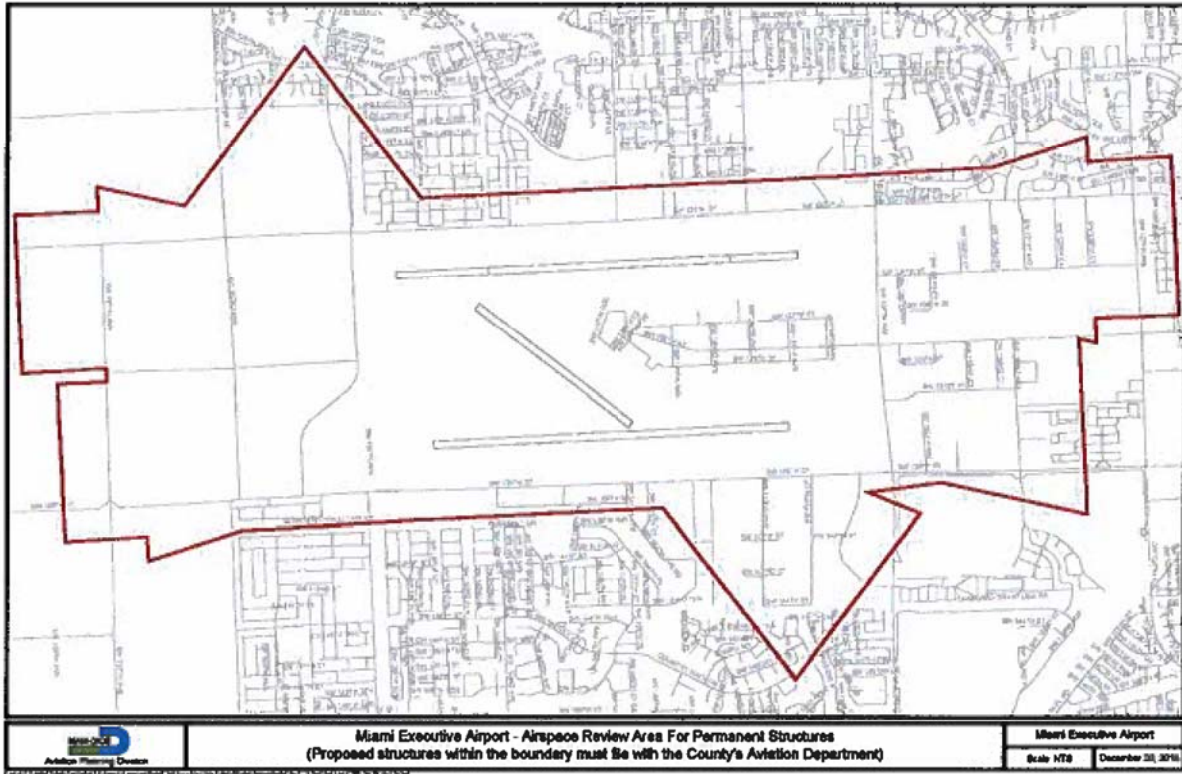


Figure 10. Miami Executive Airport – Airspace Review Area for Permanent Structures

Sec. 33-339. Miami Opa Locka Executive Airport (OPF)

(A) Properties zoned GP at OPF. Non-aviation uses on lands designated GP at OPF may be developed in three development zones. The location and intensity of non-aviation uses within each development zone is further limited by the Comprehensive Development Master Plan's Airport Land Use Master Plan map and interpretive text. The minimum and maximum of land area devoted to particular non-aviation uses for those parcels designated as GP on Figure 11, full-scale copies of which are on file with MDAD and the Department, shall be as follows:

<u>Use</u>	<u>Minimum (acres)</u>	<u>Maximum (acres)</u>
<u>Zone One (153.4 Acres)</u>		
<u>Commercial</u>	<u>7.7</u>	<u>38.4</u>
<u>Office</u>	<u>7.7</u>	<u>38.4</u>
<u>Hotel or Motel</u>	<u>0</u>	<u>15.3</u>
<u>Institutional</u>	<u>0</u>	<u>30.7</u>
<u>Industrial</u>	<u>76.7</u>	<u>130.4</u>
<u>Zone Two (100.23 acres)</u>		
<u>Commercial</u>	<u>5.0</u>	<u>25.1</u>
<u>Office</u>	<u>5.0</u>	<u>25.1</u>
<u>Hotel or Motel</u>	<u>0</u>	<u>10.0</u>
<u>Institutional</u>	<u>0</u>	<u>20.0</u>
<u>Industrial</u>	<u>50.1</u>	<u>85.2</u>
<u>Zone Three (132 Acres)</u>		
<u>Commercial</u>	<u>6.6</u>	<u>33.0</u>
<u>Office</u>	<u>6.6</u>	<u>33.0</u>
<u>Hotel or Motel</u>	<u>0</u>	<u>13.2</u>
<u>Institutional</u>	<u>0</u>	<u>26.4</u>
<u>Industrial</u>	<u>66</u>	<u>112.2</u>
<u>Maximum Floor Area Ratio: 2.0</u>		

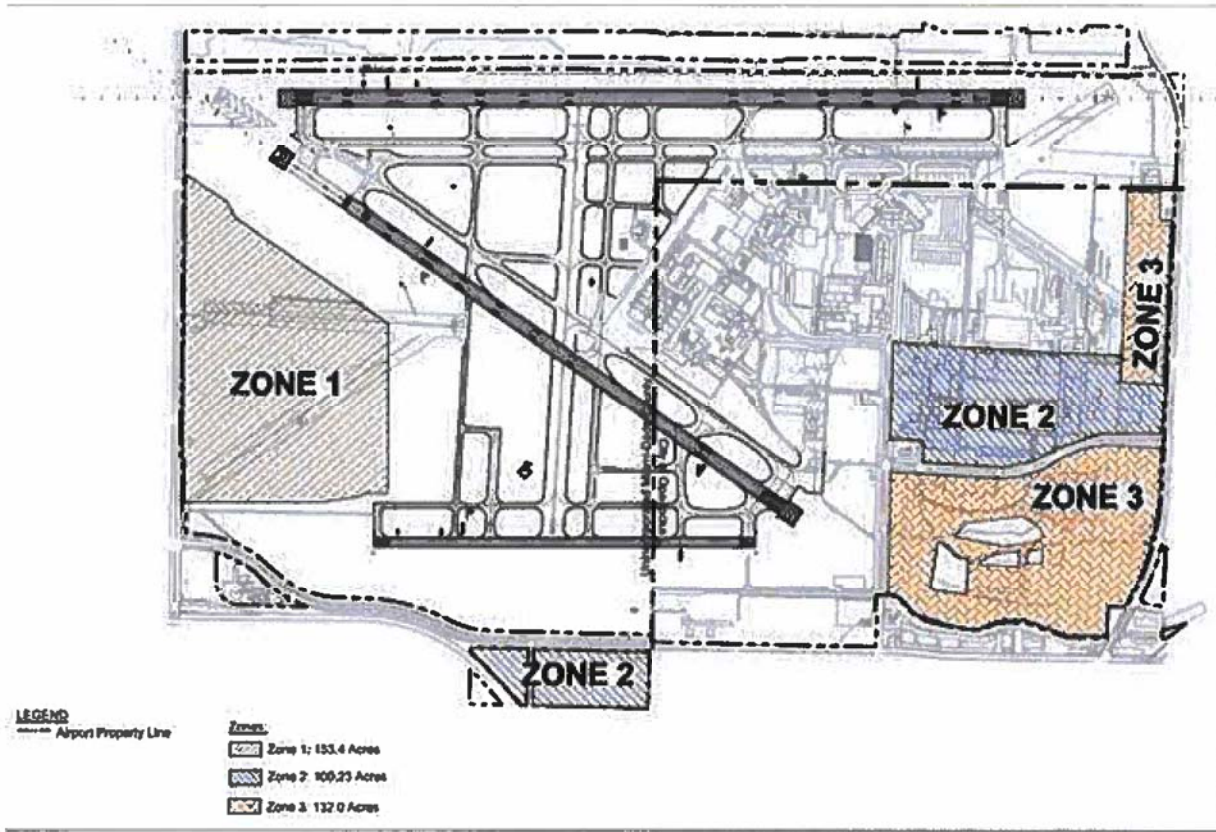


Figure 11: Miami - Opa Locka Executive Airport –
Non-Aviation Uses on GP Properties

(B) Land Use and Noise Compatibility Restriction Zones at OPF. Figure 12 depicts the land use and noise compatibility restriction zones for Miami – Opa Locka Executive Airport.

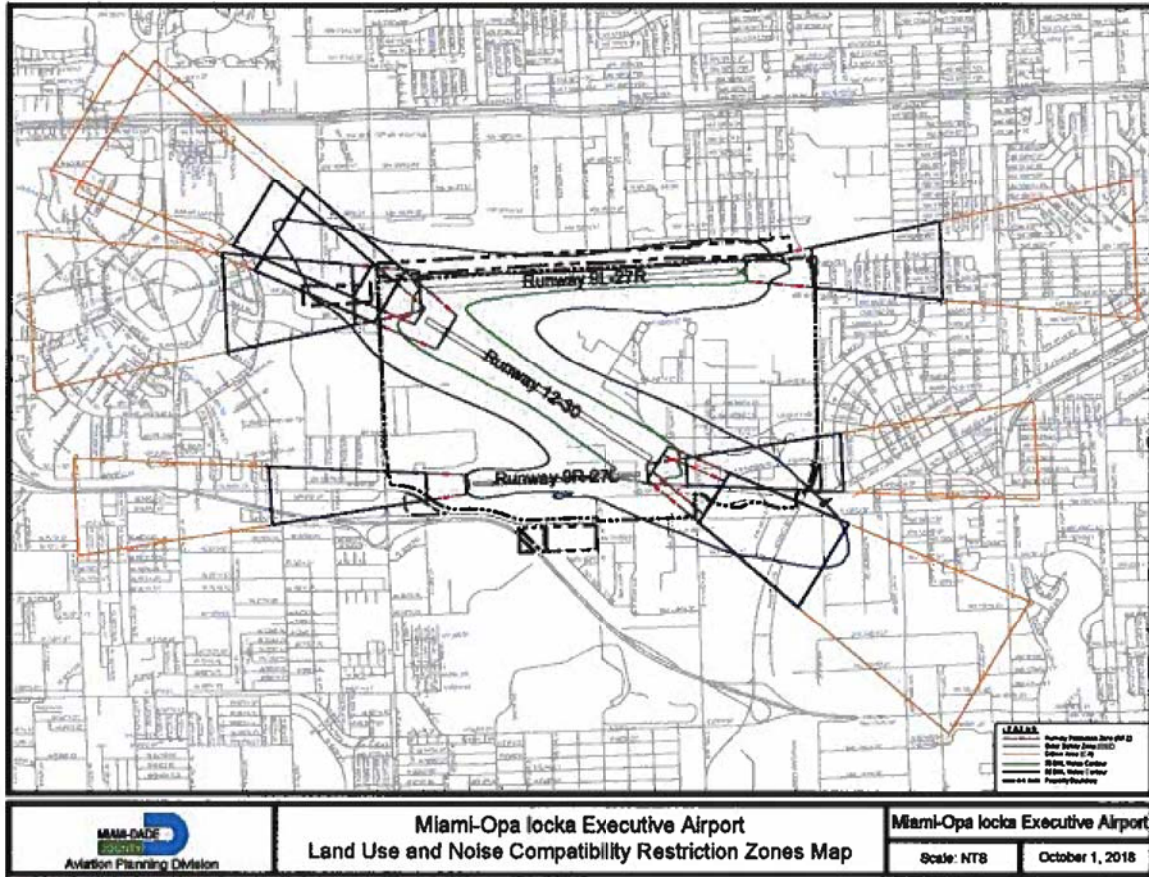


Figure 12. Miami - Opa Locka Executive Airport – Land Use and Noise Compatibility Restriction Zones

(C) Airport Heights Restriction Zones. Figure 13 depicts the airport heights restriction zones for Miami – Opa Locka Executive.

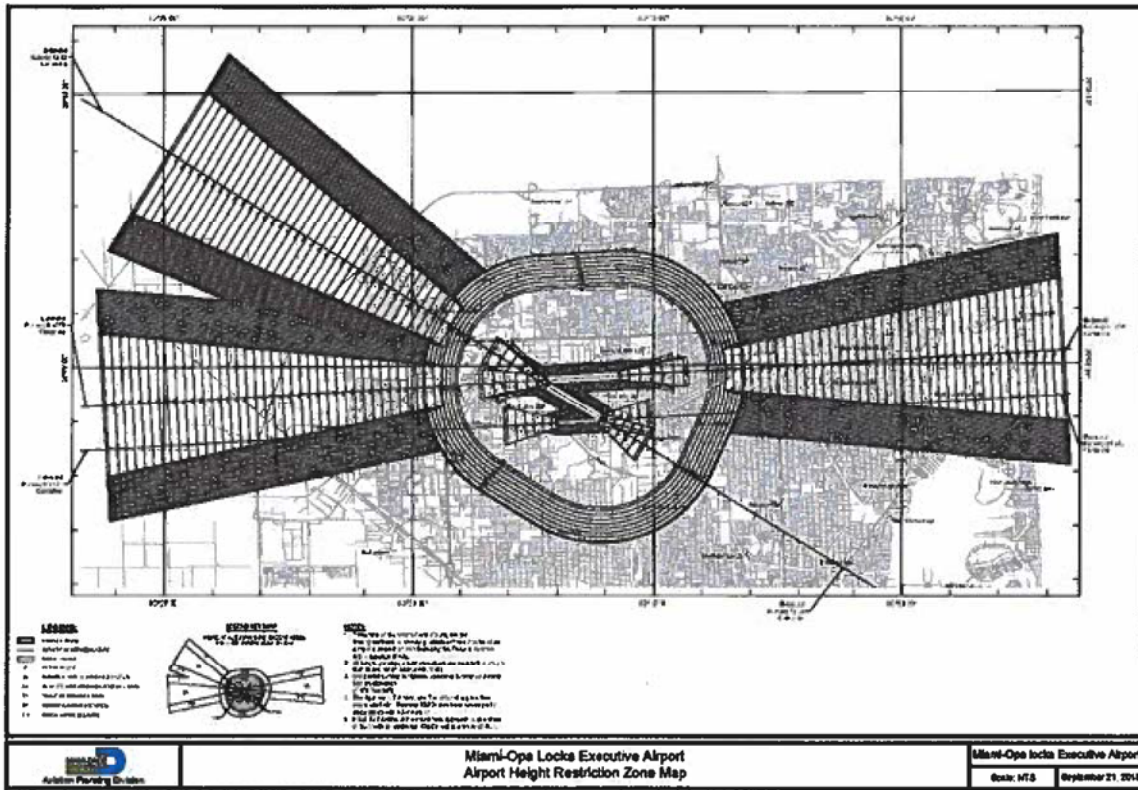


Figure 13: Miami - Opa Locka Executive Airport –
Airport Heights Restriction Zones

(D) Height Variance Eligible Area. Figure 14 depicts the Opa Locka Executive Airport - Height Variance Eligible Area (OPF-HVEA).

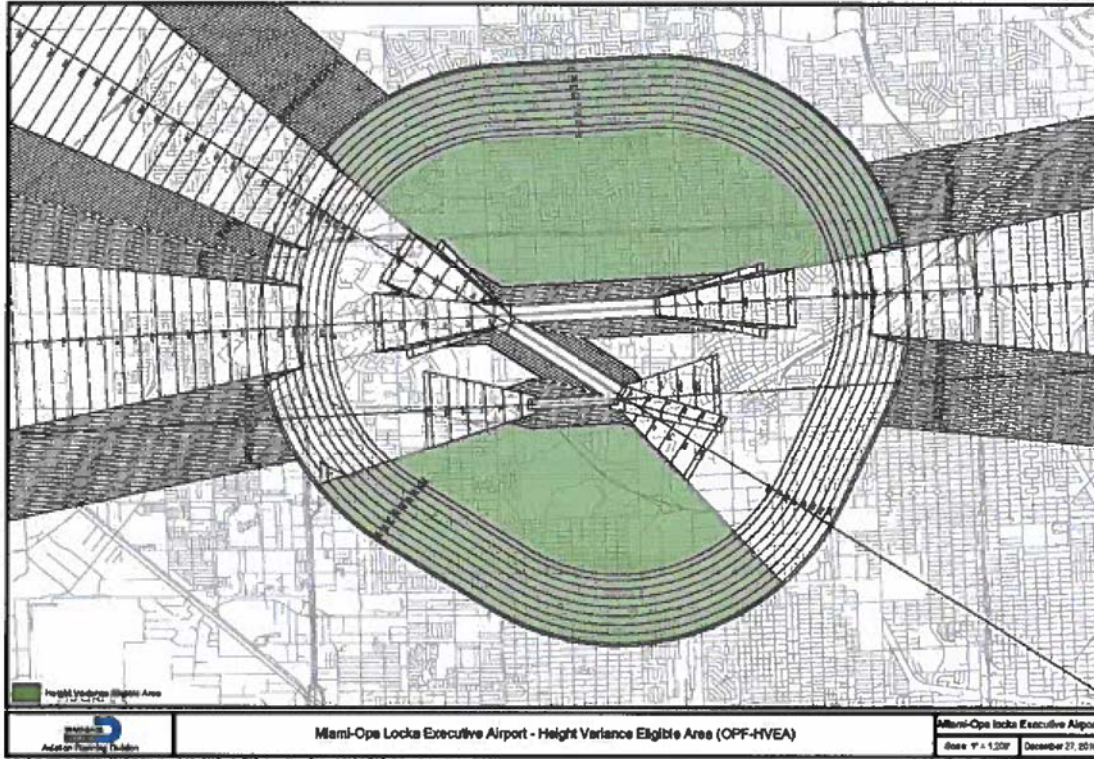


Figure 14. Opa Locka Executive Airport –
Height Variance Eligible Area (OPF-HVEA)

(E) Airspace Review Area. Figure 15 depicts the airspace review area for permanent structures around Miami – Opa Locka Executive Airport.

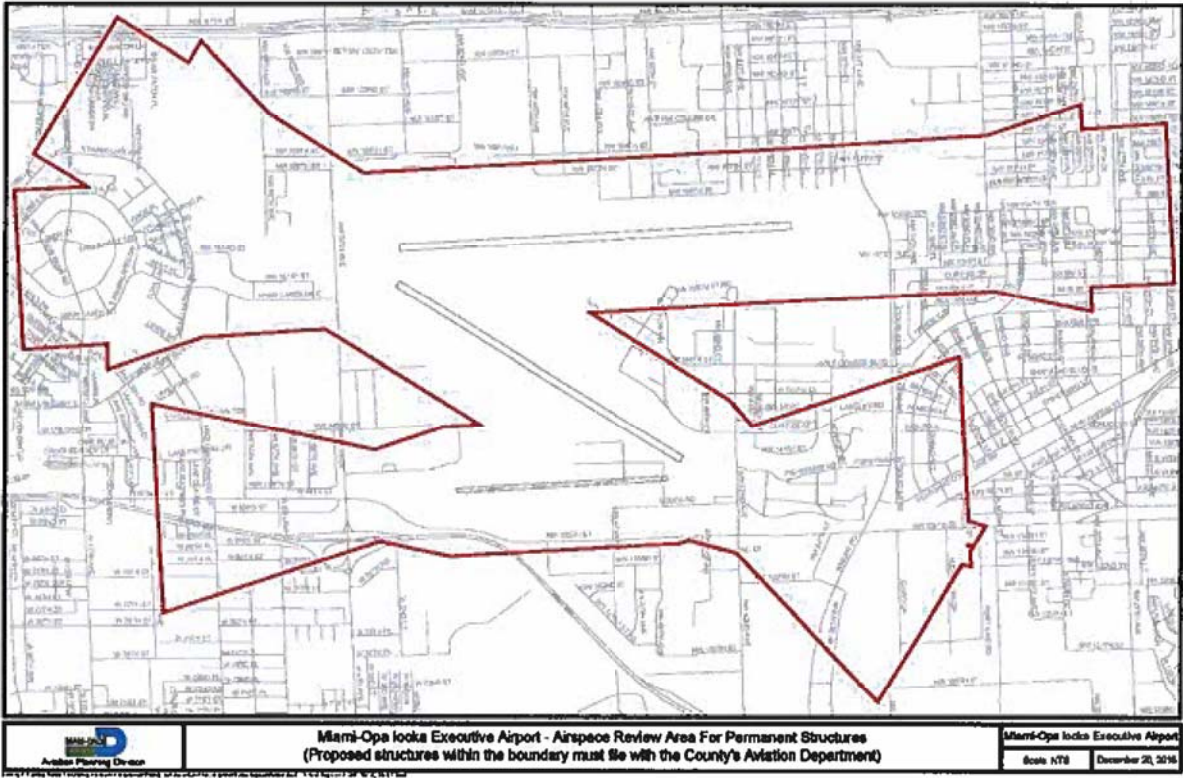
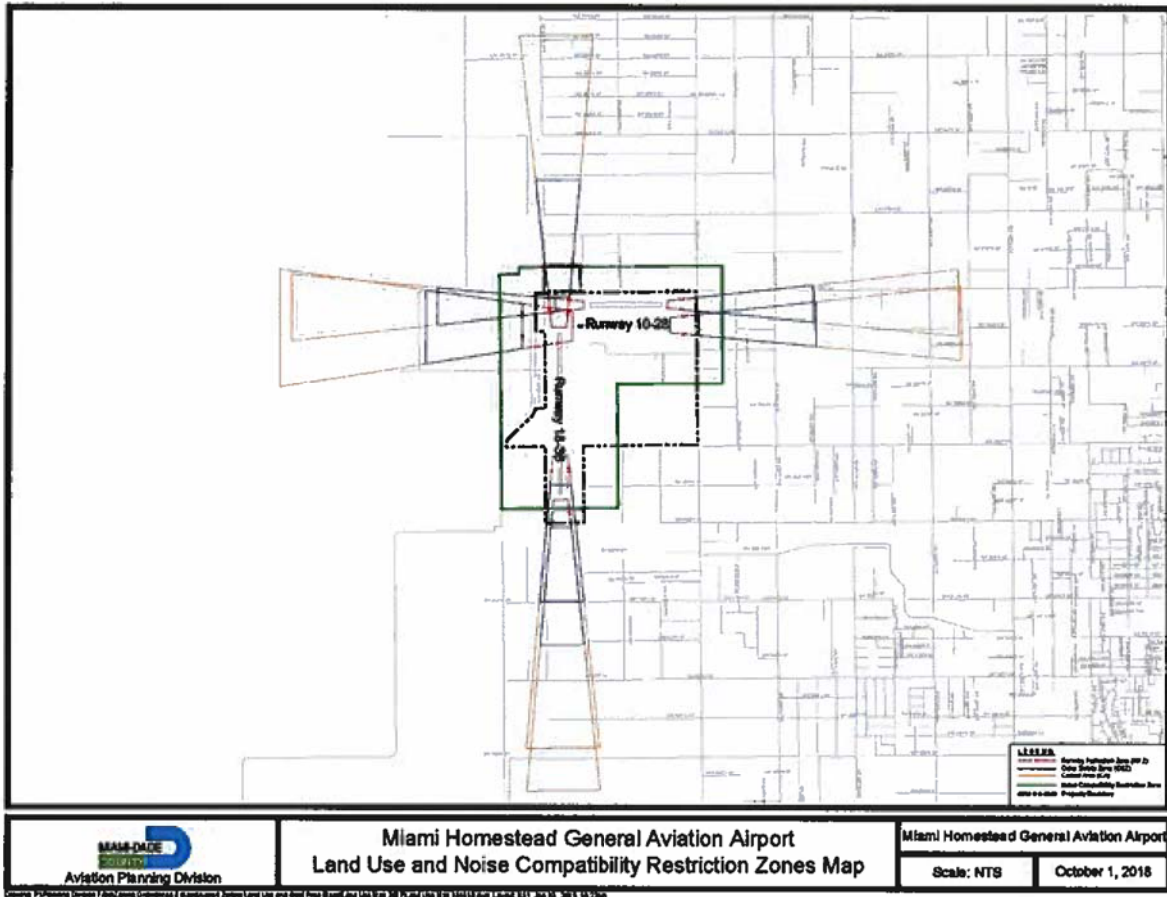


Figure 15. Miami – Opa Locka Executive Airport –
Airspace Review Area for Permanent Structures

Sec. 33-340. Miami Homestead General Aviation Airport (X51)

(A) Land Use and Noise Compatibility Restriction Zones at X51.

- (1) Figure 16 depicts the land use and noise compatibility restriction zones for Miami Homestead General Aviation Airport:**



**Figure 16. Miami Homestead General Aviation Airport –
Land Use and Noise Compatibility Restriction Zones**

(B) Airport Height Restriction Zones. Figure 17 depicts the airport height restriction zones for Miami Homestead General Aviation Airport.

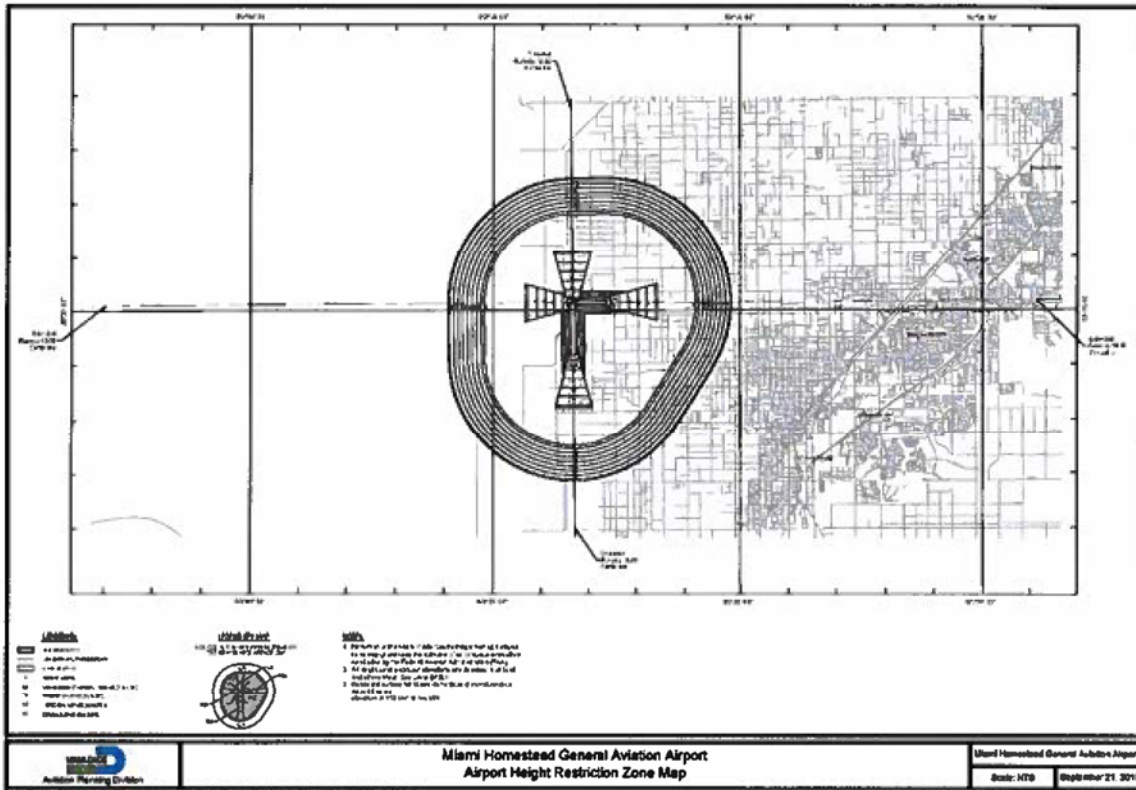


Figure 17. Miami Homestead General Aviation Airport –
Airport Heights Restriction Zones

- (C) Height Variance Eligible Area. Figure 18 depicts the Miami Homestead General Aviation Airport - Height Variance Eligible Area (X51-HVEA).

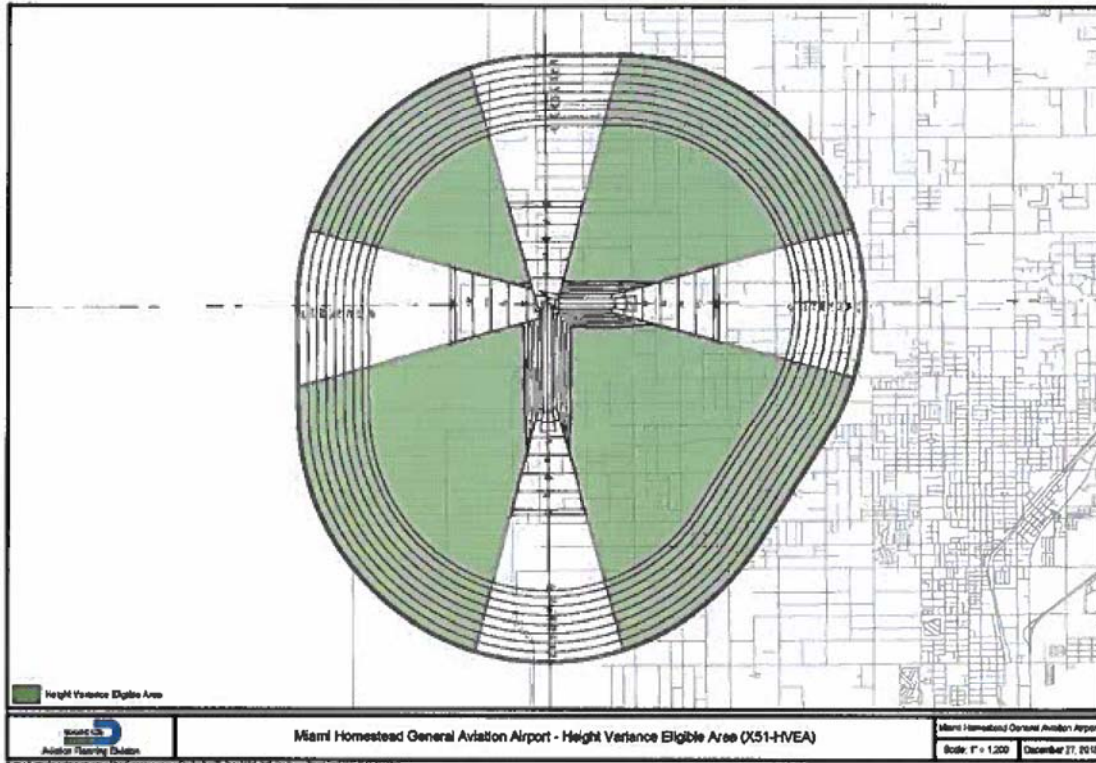


Figure 18. Miami Homestead General Aviation Airport – Height Variance Eligible Area (X51-HVEA)

(D) Airspace Review Area. Figure 19 depicts the airspace review area for permanent structures around Miami Homestead General Aviation Airport.

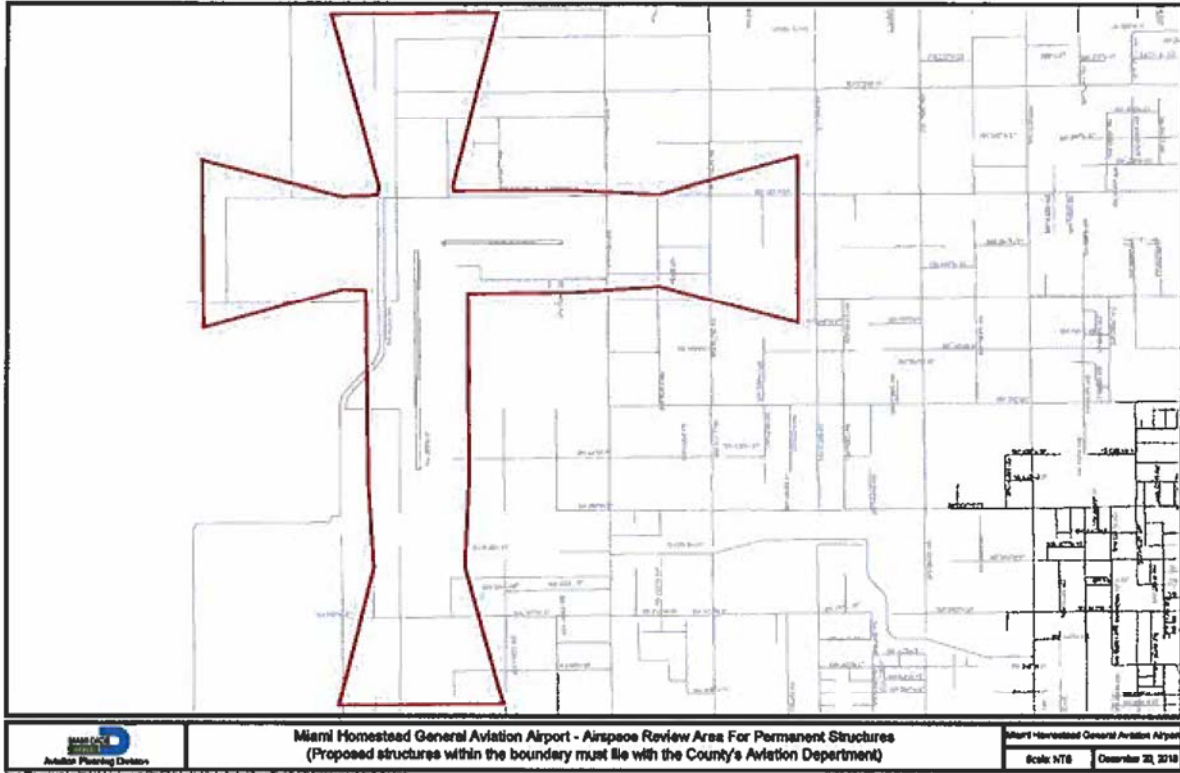


Figure 19. Miami Homestead General Aviation Airport – Airspace Review Area for Permanent Structures<<

Section 3. Section 33-314 of the Code of Miami-Dade County is hereby amended to read as follows:

Sec. 33-314. Direct applications and appeals to the County Commission.

* * *

(C) The County Commission shall have jurisdiction to directly hear other applications as follows:

* * *

(12) ~~[[Hear application for and, upon recommendation of the Airport Developmental Impact Committee Executive Council, grant or deny applications for those special exceptions and variances pursuant to Article XXXVII of this Code (Miami International Airport (Wileox Field) Zoning).~~

~~(13)]~~ Applications to approve, expand, or modify:

* * *

>>(13)<< ~~[[14)]~~ Applications to modify or delete declarations of restrictive covenants encumbering property wholly located within any Urban Center or Urban Area zoning district, as defined in this Code, where and to the extent that modification or elimination of the declaration of restrictive covenant or part thereof is necessary to allow development conforming in all respects to the applicable Urban Center or Urban Area District regulations.

>>(14)<< ~~[[15)]~~ Applications for zoning action on the property that is subject to a deed restriction or a restrictive covenant placed on the property in connection with its conveyance by the County, or in connection with a subsequent modification or release by the County of such restriction or covenant.

>>(15)<< [(16)] Except where permitted in the IU-3 District, applications for unusual use pertaining to electric power plants and ancillary uses.

>>(16)<< [(17)] Hear application for and grant or deny Director's applications for single-family and duplex lots owned by Miami-Dade County which have been designated for development under "The Infill Housing Initiative" pursuant to Article VII, Chapter 17 of this Code.

>>(17)<< [(18)] Applications for zoning action located within:
* * *

>>(18)<< [(19)] Applications for zoning action for:
* * *

>>(19)<< [(20)] Applications for special exception for a general site development plan within the Government Center Subzone of the Rapid Transit Zone, pursuant to Section 33C-11.
* * *

Section 4. Article XXXVIII (Opa Locka Airport Zoning), Article XXXIX (Homestead General Aviation Airport Zoning), and Article XL (Kendall Tamiami Executive Airport Zoning) of chapter 33, and section 33-303.2 are hereby deleted in their entirety.

Section 5. Because the regulations addressed by the agreements have been repealed by this ordinance, the County Mayor or County Mayor's designee is hereby directed to terminate the Interlocal Agreement by and between Miami-Dade County and the City of Doral regarding Miami International Airport (Wilcox Field) Zoning, adopted pursuant to Resolution No. R-148-05, and

the Interlocal Agreements by and between Miami-Dade County and the City of Miami regarding Miami International Airport (Wilcox Field) Zoning, adopted pursuant to Resolution Nos. R-146-05 and R-1204-07.

Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Dennis A. Kerbel
James Eddie Kirtley

Handwritten signatures in black ink. The top signature is 'APW' and the bottom signature is 'DAK'. Both are written over horizontal lines.