



## Airport Impact Overlay District Impacts

### Subject: Change in AIOD Status

The County’s presentation focuses on the impacts to homes in Ldn 65+. The reality is that the AIOD significantly impacts homeowners in all tiers.

Information in County Meeting Packet:

Table 2 tabulates the number of existing homes that would see a change in AIOD status.

Table 2. Summary of Homes with Change in AIOD Status						
		Moving To				Totals
		Outside the AIOD	One-mile Buffer	Ldn 60-65	Ldn 65+	
Moving From	Outside the AIOD	0	11,933	2,250	0	14,183
	One-mile Buffer	1,684	10,691	14,360	162	26,897
	Ldn 60-65	816	2,725	2,356	438	6,335
	Ldn 65+	0	16	38	10	64
Totals		2,500	25,365	19,004	610	47,479

#### Existing Homes and Lots Becoming Located in Ldn 65+

Based on GIS analysis, there are approximately 600 existing residential structures that would become located within the Ldn 65+ for the first time. New residential development is not permitted in this impact area, as described throughout this report. However, under the [Code of Virginia Section 15.2-2295](#), legally established uses – in this case, the residential uses – would *not* become nonconforming uses due to the Proposed Amendments. Additionally, both the existing text of the AIOD and the proposed ZOAM provide an exception for such existing homes that permits additions that comply with certain acoustical treatment requirements.

### Concerns: Change in AIOD Status

1. County staff presentation to the Board on 11/9 only focused on Ldn 65+ - no mention of Ldn 60-65 or One-mile buffer during the presentation.
2. The impact is much greater than County staff is presenting. The County needs to address the impacts to all existing homes being moved to Ldn 65+, Ldn 60-65, and the One-mile Buffer.
3. BCA is primarily concerned with the impacts on the owners being moved into Ldn 60-65 and the One-mile buffer.
4. Brambleton has around 5,000 of its 6,400 homes being moved into Ldn 60-65.
5. 100% of Brambleton will be within the One-mile Buffer.
6. The County’s count on the total homes moving into Ldn 65+ does not include already approved development. What is the true number of approved lots and homes? This needs to be shown and considered.



## Airport Impact Overlay District Impacts

### Subject: Impacts to Property Values

The County briefly mentions an impact to property values but has no projections on the amount.

Information in County Meeting Packet:

Impacts to Property Value by Airport Disclosure

Staff has reviewed an article from the *Journal of Urban Economics* that was provided by the Dulles Area Association of Realtors (DAAR) to better understand what impact, if any, a requirement for disclosure is anticipated to have on home values (See Attachment 6, "Buyer information and the hedonic: The impact of a seller disclosure on the implicit price for airport noise"). The results of this study indicate that "It does not appear that the disclosure affected housing prices in the low noise zone," which was defined in that study as average decibel levels between 55 and 65. For the highest noise zone, where average decibel levels were between 65 and 70, the study estimates that there is a 2.9 percent reduction in housing prices associated with a disclosure requirement. With respect to the Proposed Amendments, the study would indicate that no impacts to property values would be experienced in the one-mile buffer or the Ldn 60-65 aircraft noise impact areas, while a modest impact is possible within the Ldn 65+, although new residential development is prohibited, and any impacts on property value are more directly attributable to actual noise rather than the regulatory environment.

### Concerns: Impacts to Property Values

1. County staff presentation to Board on 11/9 didn't include anything on property values or tax revenue.
2. County references an article with data from the mid-1990 to present impacts to property value.
3. County report minimizes by focusing on Impacts from Disclosures – not impacts Ldn 65+ and Ldn 60-65.
4. County doesn't project a dollar value of the impact.
5. BCA did a projection on Total Property Value Loss – almost a half-a-billion dollars to existing homeowners.
6. How does this decrease in property value impact tax revenue?

	Average Home Value	Brambleton Homes	Non-Brambleton	Total # Homes	% Decrease	Total \$ Impact
Ldn 65+	\$ 800,000	-	1,000	1,000	5.1%	\$ 40,800,000
Ldn 60-65	\$ 800,000	5,000	14,004	19,004	2.9%	\$ 440,892,800
<b>Impact to Brambleton Homeowners</b>		<b>\$ 116,000,000</b>		<b>Total Impact to County Homeowners</b>		<b>\$ 481,692,800</b>



## Airport Impact Overlay District Impacts

### Subject: Disclosure Requirements for HOAs

The County is requiring HOAs to provide disclosure. BCA believes these requirements are outside of the County's authority.

Information in County Meeting Packet:

#### Proposed Changes to the Disclosure Requirement

The existing disclosure requirement that applies to properties in the AIOD is to state that the property is "located within an area that will be impacted by aircraft overflights and aircraft noise."

This information is required to be included in:

- Sales contracts,
- Brochures and promotional documents,
- Homeowner Association documents,
- Subdivision plats and site plans, and
- Deeds of Conveyance.

### Concerns: Disclosure Requirements for HOAs

1. BCA has legal opinion that states the County does not have the authority to require HOAs to disclose subjects that are not within disclosure requirements set by the state.
2. The BCA Declaration does not include airport disclosure. Most of the individual Section Deeds do not include Airport Disclosure because they were not within required disclosure tiers.
3. When questioned, the stated that [§ 15.2-2295. Aircraft noise attenuation features in buildings and structures within airport noise zones \(virginia.gov\)](#) enables regulation. This may allow disclosure through regulation disclosure through "recorded surveys, subdivision plats and all final site plans approved after January 1, 2003," but it does not require HOAs to disclose.
4. Requirements for HOA Disclosure are set by [§ 55.1-1809. Contents of association disclosure packet; delivery of packet](#)
5. HOA disclosure outside of the state statute can bring additional liability and litigation exposure to the HOA.
6. Implementation, monitoring or enforcement of the expanded disclosure requirements will be difficult. The County affirmed and provided the following comment, " *With regard to monitoring, this is and will continue to be a challenge. The Board/staff discussion has included this in varying degrees throughout this public process and I would summarize it by saying education rather than penalty is the favored strategy to pursue compliance, while acknowledging there is some reliance on property owners and owners associations operating with education and good faith.*"



## Airport Impact Overlay District Impacts

### Subject: Methodology, Fairfax County, and AIOD

MWAA's methodology is not what is typically used throughout the United States. Fairfax County didn't adopt MWAA logic for numerous sensible reasons. This is what Fairfax County had to say on the subject.

Information in County Meeting Packet:

The Fairfax County Department of Planning and Development issued a memorandum (included in Attachment 5) to County staff explaining the Fairfax County decision not to adopt the 2019 noise contours. That memo includes the following:

*"The Board's decision was based primarily upon the fact that those contours are based on a projected full operational capacity that might not be reached for 90 years; that, with the exception of the Denver International Airport, the methodology is not typically employed throughout the United States; that the variables that went into the creation of these contours may change over time; that most jurisdictions around other international airports focus on noise abatement measures for noise-sensitive uses located within the 60-65 DNL contours; that the noise contours are based on a capacity analysis, not a demand analysis; and that such long-term projections might not predict as yet unknown technological, operational, economic, and other unknown variables, and may be inaccurate over time."*

### Concerns: Methodology

1. County staff did not mention Fairfax County's concerns for MWAA's methodology during their 11/9 presentation to the Board.
2. Loudoun County is blindly following MWAA direction. The FAA needs to be involved.
3. The above needs to be highlighted and restated because these are all the factors that the County legislation ignores:
  - a. MWAA's approach and methodology is not typically used throughout the United States
  - b. Variables used in the creation of the contour will change over time
  - c. Jurisdictions focus on noise abatement
  - d. Noise contours based on demand analysis
4. Long-term projections (50-years) are inaccurate due to changes and advancements in technology, operational, economic, and other unknown variables.



## Airport Impact Overlay District Impacts

### Subject: Acoustical Treatments and Insurance

Existing homes moved within Ldn 65+ and Ldn 60-65 will require acoustical treatments for any new additions and for entire home rebuilds due to fire or other disasters; and certification from licensed acoustical engineers.

Information in County Meeting Packet:

- (2) **Acoustical Treatment.** The applicant must incorporate acoustical treatment into all residential uses and structures to ensure that interior noise levels within living spaces (not including garages, sunrooms, or porches) do not exceed an average sound level of Ldn 45 db(A). Compliance with this must be based upon a certification from an acoustical engineer licensed in the Commonwealth of Virginia, submitted prior to zoning permit approval, that the design and construction methods and materials to be used in the construction of the residential use or structure are such that the foregoing standard will be met, assuming exterior noise levels between Ldn 60 – 65.

### Concerns: Acoustical Treatments and Insurance

1. County staff make minimal comments on acoustical treatments to the Board at their 11/9 meeting. During Board questions, County staff doesn't provide firm costs for such improvements.
2. Acoustic treatments and certification can be costly.
3. Acoustic treatments and certification are required for all disaster-related rebuilds.
4. Existing homeowners will likely see increases to their homeowner insurance premiums as a result of the new acoustic treatment rebuild standard that is required.
5. If not properly insured, homeowners can find themselves having to pay for acoustical treatment out of their own pocket.



## Airport Impact Overlay District Impacts

### Subject: Avigation Easements

The initially proposed legislation required existing homeowners to dedicate an avigation easement to MWAA if they applied for a zoning permit to install a deck, sunroom, shed, or other exterior modification that requires a permit from the County.

Information in County Meeting Packet:

- (3) **Avigation Easements.** Prior to the approval of any subdivision plat creating a lot upon which a residential use or structure could be constructed, zoning permit for a residential use or structure on an existing lot of record, or site plan for one or more dwellings, the owner(s) of the property subject to such subdivision plat, zoning permit, or site plan must dedicate an avigation easement to the Metropolitan Washington Airports Authority, indicating the right of flight to pass over the property, as a means to securing the long-term economic viability of Washington Dulles International Airport.

### Concerns: Avigation Easements

1. More time is needed to understand avigation easements. At the 11/9 meeting (2:43:00) Letourneau – “Are aviation easements required for a plan to fly over?” County Attorney “No its not. There is not a legal requirement for it. I think it was a concept developed in the ‘80s when we were trying to figure out how to provide notice for those property owners. So, it is just recorded in the land records.” Avigation easements are not merely “notice for those property owners.”
2. The County initially proposed to imply restrictive easements with no compensation to the property owner.
3. The County has since stated that this was an “unintentional” and plans to propose new language.
4. Existing owner of residential lots without a home will be required to give up their property rights through an avigation easement when they are ready to build their dream home on their property.
5. These unintentional impacts are another reason why a roundtable is needed that involves other stakeholders.