



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: May 13, 2020

Department: Public Works Agenda Planning Date: May 7, 2020 Time required: None

Audio/Visual aids

Contact: Joe Fennimore Phone: 503-566-4177

Department Head Signature:
Brian Nichols

TITLE	Receive notice of hearings officer's recommendation and schedule a public hearing for Zone Change/ Comprehensive Plan/Conditional Use (ZC/CP/CU) Case 19-002/TLM Holdings, LLC.
Issue, Description & Background	The hearings officer held a public hearing on March 27, 2019, and on November 19, 2019, issued a recommendation that, if the applicant provides additional information, the Board approve the goal exceptions, comprehensive plan amendment and zone change, deny the blanket conditional use and instead apply a limited use overlay. As part of the land use process, the Board of Commissioners must officially receive notice of the recommendation and schedule a public hearing. The suggested hearing date is June 3, 2020, or later.
Financial Impacts:	None.
Impacts to Department & External Agencies	None.
Options for Consideration:	1. Receive the recommendation and schedule a public hearing for June 3, 2020. 2. Receive the recommendation and schedule a public hearing for a later date. 3. Receive the recommendation and do not schedule a public hearing at this time.
Recommendation:	Staff recommends the board receive the hearings officer's recommendation and schedule a public hearing for June 3, 2020.
List of attachments:	Hearings officer's recommendation.
Presenter:	Joe Fennimore

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Joe Fennimore - gfennimore@co.marion.or.us

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the)
Application of:)
TLM HOLDINGS, LLC)
Case No. ZC/CP/CU 19-002
Clerk's File No.
**Zone Change/Comprehensive Plan
Amendment/Conditional Use**

RECOMMENDATION

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the applications of TLM Holding, LLC to take exceptions to Statewide Planning Goal 3 (Agricultural Lands) and Goal 14 (Urbanization), to change the Comprehensive Plan designation from Primary Agriculture to Public and Semi-Public, to change the zone from EFU (Exclusive Farm Use) to P (Public), and for a conditional use permit to establish airport-related uses on a 16.54-acre parcel at 22515 Airport Road NE, Aurora, Marion County, Oregon (T4S, R1W, S02D, tax lots 800 and 900).

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Comprehensive Plan (MCCP) and the Marion County Code (MCC) title 17, especially chapters 17.119, 17.123, 17.171 and 17.177.

III. Public Hearing

A public hearing was held March 27, 2019. The Planning Division file was made part of the record. The following persons appeared and testified at hearing:

- | | | |
|-----|-----------------|---|
| 1. | Lisa Milliman | Marion County Planning Division |
| 2. | John Rasmussen | Marion County Public Works Engineering Division |
| 3. | Mark Shipman | Applicant's attorney |
| 4. | Alan Sorem | Applicant's attorney |
| 5. | Aron Faegre | For applicant |
| 6. | Lacy Brown | For applicant |
| 7. | Sara Kendrick | Attorney for City of Aurora |
| 8. | Joseph Schaefer | City of Aurora |
| 9. | Jan Shea | Aurora citizen |
| 10. | Tom Heitmanek | Aurora citizen |
| 11. | Tim Shea | Aurora citizen |

The following documents were entered into the record as exhibits:

- Ex. 1 Document packet from applicant (86 pages)

Ex. 2 Highlighted portions of existing record documents

No objections were made to notice, jurisdiction, conflict of interest or evidence at hearing. Applicant stated that no foundation was laid to show Mr. Schaefer was authorized by the City of Aurora to speak or testify on behalf of the city. The record remained open until April 10, 2019 for applicant and until April 24, for opponents and others to submit documents into the record, and until May 1, 2019 for applicant's final submission. During the open record period, City of Aurora submitted Resolution No. 759, ratifying Mr. Schaefer's authority to speak for the city at hearing. It is the hearings officer's understanding that Mr. Schaefer's other record comments are in his personal capacity. The following documents received during the open record were and entered into the record as exhibits:

- Ex. 3 April 10, 2019 letter from Mark Shipman, with attached exhibits A through E
- Ex. 4 City of Aurora/Marion County Urban Growth Boundary Coordination Agreement, September 10, 2010
- Ex. 5 City of Aurora Transportation System Plan, August 2009
- Ex. 6 March 27, 2019 letter from Joseph Schaefer, with attached March 6, 2019 Marion County Public Works memorandum
- Ex. 7 April 5, 2019 letter from Joseph Schaefer, with attached aerial photographs of subject property, and of Mission Hills Church, Colorado
- Ex. 8 April 18, 2019 comments from Clackamas County Transportation Engineering
- Ex. 9 City of Aurora Resolution No. 759
- Ex. 10 April 23, 2019 letter from Joseph Schaefer, with attached excerpts from ITE Trip Generation Manual
- Ex. 11 Applicant's May 1, 2019 record submission from Mark Shipman

IV. Findings of Fact

The hearings officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

1. The subject 16.54-acre property is one parcel in two tax lots (04S1W02D 800 and 900), designated Primary Agriculture in the MCCP and zoned EFU under the MCC. The property is within the county's Airport Overlay (AO) zone for the Aurora State Airport.
2. The property is on the west side of Airport Road, about 1,365' north of the Keil Road - Airport Road intersection. The property previously housed a religious retreat, training facility and church. The property contains worship, meeting and office buildings, along with cabins, two dwellings, a well, multiple septic systems, gas and electric infrastructure and internal road system and parking facilities. The property is not specially assessed for farm use. County land use case, Special Exception 77-37 (SE 77-37), approved the property's current configuration; the property is considered a legal parcel for land use purposes.
3. Properties east, across Airport Road, are zoned EFU and contain various-sized parcels in farm use. P zoned properties associated with the Aurora State Airport abut the property north, south and west.

4. Applicant plans to develop the subject property with airport-related commercial and industrial uses. Development approval requires the county to take exceptions to Statewide Planning Goal 3, Agricultural Lands, and 14, Urbanization, to change the MCCP designation from Primary Agriculture to Public and Semi-Public, change the zone from EFU to P, and to grant a conditional use permit to establish airport-related uses on the property.
5. Marion County Planning Division requested comments on the proposal from various governmental agencies.

Marion County Public Works (MCPW) Land Development and Engineering Permits (LDEP) commented:

ENGINEERING CONDITIONS

Condition A – Prior to building permit issuance, design and obtain a Major Construction Permit for rural type frontage improvements along the Airport Road subject property frontage that are anticipated to include vegetation clearing, gravel road shoulder, slope and open system drainage work. Prior to issuance of a Building Department Certificate of Occupancy, construct and acquire final inspection approval of the roadway related improvements.

Nexus for the above condition is in accordance with Marion County Code (MCC) 17.123.070 and takes into consideration the health, safety, and welfare of the traveling public. During an initial inspection it was noted that a 5-foot gravel shoulder needs to be developed along the Airport Road property frontage and the ditch needs to be moved back.

Condition B – Prior to building permit issuance, contribute a proportional share of the cost of planning, designing, and constructing the following projects, or as otherwise may be agreed to by the directly affected agencies relative to identified mitigation measures:

1. *Signalization and turn lanes on Ehlen Road at the intersection with Airport Road as identified in the City of Aurora TSP.*
2. *Improvements to the OR551/Ehlen Road intersection, Boones Ferry Road/Ehlen Road intersection, and construction of a new local county road connecting OR551 and Boones Ferry Road as identified in the 2018-2021 Oregon Statewide Transportation Improvement Program under Project Key 18664.*

We have reviewed the TIA and substantially concur with the trip generation and distribution analysis, but find that the proposed mitigation measures do not match with those identified in the Marion County RTSP, the City of Aurora TSP, nor the ODOT 2018-2021 STIP for the respective projects. If Applicant can obtain written concurrences from the applicable agencies for any improvements being proposed not as adopted, then the project descriptions and resulting proportional share contribution may potentially be adjusted to reflect the accepted alternative improvement(s).

ENGINEERING REQUIREMENTS

- C. The County requires any development having 0.5-acre or more of impervious (hard) surface to provide storm water detention. Acceptable drainage and detention systems must be designed and approved prior to issuance of a building permit. Any such system as required must be constructed and approved by Public Works prior to issuance of a Certificate of Occupancy.
- D. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #00-10R.
- E. If Stenbock Way is to be used as an access for the subject property; Applicant shall provide evidence of a recorded Declaration of Covenants for Road Maintenance Agreement (RMA) regarding the private easement. Public Works needs to review, approve and sign the RMA prior to recordation if a recorded RMA does not currently exist. Please contact Public Works Engineering at (503) 584-7714 for details.
- F. In accordance with Marion County Rural Transportation System Plan (MCRTP) Section 10.3.5, Policy #10a the number of access points on Arterial and Major Collector roadways shall be kept to a minimum to reduce the interruption to traffic flow and to promote safety, and per MCC 11.10.070 one access is allowed per lot unless additional accesses are deemed necessary by the director; therefore, one direct access will be allowed to Airport Road approximately at the midway point of the property frontage along Airport Road. It is noted that additional accesses are proposed on the site plan from Stenbock Way as well as internally from the neighboring properties.
- G. In accordance with MCC 11.10, driveway permits will be required for any new access or change in use of the existing access to the public right-of-way. The Applicant shall be required to apply for a driveway "Access Permit" and construct any improvements required by the permit. Driveways must meet sight distance, design, spacing, and safety standards.

ENGINEERING ADVISORIES

- H. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.
- I. Applicant should contact DEQ to determine if coverage under a 1200-C Construction Stormwater Permit is required.
- J. Per the Marion County Rural Transportation System Plan, Airport Road is a Major Collector. Per MCC 17.112.020 a Special Setback of 40 feet measured from the centerline of the street right-of-way applies on Major Collectors, and from which standard zoning setbacks are measured.

Marion County Building Inspection on-site wastewater specialist commented that septic permits may be required depending on the use of proposed structures.

City of Aurora opposed the application and commented about traffic mitigation and road improvements that may be needed as a result of past development in the area compounded by the proposed zone change and development.

City of Wilsonville commented:

In general, the City does not support conversion of EFU land to non-agriculture uses in the French Prairie area of the Willamette Valley. The City supports Oregon land-use law that calls for urban-level development to be governed and served by a municipal government.

If the County approves the application, the City respectfully encourages, as Conditions of Approval, full implementation of all traffic mitigation projects identified in the DKS traffic report. In addition, the City feels it would be prudent to have the applicant commission an updated traffic study with current numbers to ensure no additional traffic mitigation is necessary given the existing study uses older traffic data from 2015. If additional traffic mitigation is recommended in a subsequent study it should also be included as a condition of approval.

In particular, the City of Wilsonville encourages Marion County to coordinate with Clackamas County to ensure the project contributes a fair share, based on expected traffic, to signalization of the Airport Road/Miley Road intersection under Clackamas County jurisdiction.

The City also feels stormwater drainage needs to be appropriately handled as close to the site as feasible to avoid impacting the region's streams and rivers, specifically the Willamette River Basin. The proposed development site is located at the headwaters of an unnamed creek that is a tributary of the Pudding River and is subject to State permitting requirements. A recommended Condition of Approval is that any permits, such as NPDES permit, be obtained from the appropriate agencies.

The City of Wilsonville has raised issues of concern over past decade concerning development of agriculture lands around the Aurora airport, particularly pertaining to the lack of coordinated, inter-jurisdictional planning to accommodate increased urban level uses in a rural, unincorporated area that supports an active, growing agricultural sector but lacks a transportation system to support urban-level development. Without coordination between local governments and state agencies in planning for an expanded Aurora State Airport, opportunities are lost and issues are exacerbated, including:

- Surface Transportation Impacts
- Lack of Alternative Transportation Options
- Unfair Competition to Adjacent Jurisdictions
- Environmental Concerns
- Potential Harm to the Important Agriculture Economic Cluster

Wilsonville believes that a coordinated effort should carefully consider alternatives and the potential impacts before risking long-term harm to the agricultural sector of farmers, food processors and adjacent industries of the French Prairie area.

Clackamas County Transportation Engineering commented:

1. Trip Generation. The TIS provides trip generation for the existing use on the parcel that is equivalent to a 100,000 square foot church, which is inappropriate. The previous use on the site, the Missionary Memorial Church Theological Center, was a modest church camp with parking for a couple dozen vehicles at best. Moreover, the church is no longer occupied so the number of trips generated by the site is effectively zero. While a church may be allowed in EFU land as a conditional use, the assumed trip generation of a 100,000 square foot (sf) church is not an accurate representation of the previous land use, or of a worst case use of the existing EFU. Assuming a 100,000 sf church on this site inflates the "existing" site trips, which significantly understates the impacts associated with the proposed zoning.
2. Trip Distribution. The volume of traffic using Airport Rd seems low (5%) relative to OR-551 (30%). We believe that a significantly higher percentage of drivers will use the Airport Rd route, based on the fact that the site access will be to Airport Rd, and that Airport Rd provides a direct route to and from 1-5.
3. Airport Rd & Miley Rd Intersection. The TIS did not evaluate this intersection. After accounting for comments #1 and #2 above, the proposed zone change may cause a significant effect at the intersection. Clackamas County is concerned about additional traffic on Airport Rd because of traffic operations and safety at the intersection, which is a top SPIS site. A traffic signal is planned at the intersection, and it is listed in the Clackamas County Transportation System Plan (#1093). No funding has been identified. Clackamas County recommends that the applicant's engineer evaluate impacts and potential mitigations at this intersection to address safety and efficiency.
4. Safety Improvements. Although the signalized intersections of Arndt Rd/Airport Rd and Arndt Rd/OR 551 are not under Clackamas County jurisdiction, we recommend that reflectorized signal head backplates are considered to improve signal visibility and overall safety.

We ask that the applicant provide Clackamas County the opportunity to review and comment on a revised traffic impact study that addresses the issues outlined herein.

Clackamas County Transportation Engineering provided follow up comments on April 18, 2019 (exhibit 8):

I have reviewed the memo by Lacy Brown of DKS Associates and dated April 9, 2019 (memo). The memo addresses Clackamas County comments on the Traffic Impact Analysis report, dated February 1, 2019 (TIA). Below are my review comments.

Comment #1: Trip Generation

We raised a concern about the trip generation numbers provided in the TIA. The memo acknowledges that the trip generation was inappropriate, based on new information that was obtained during the land use hearing. DKS will submit a revised TIA with trip generation based on a farm stand/nursery (ITE Land Use 817), which is expected to result in 290 additional daily trips on the system, or 23 AM trips and 8 PM trips. We concur with this approach, although we do not expect the revised operations analysis to be appreciably different than those provided in the TIA

Comment # 2: Trip Distribution & Comment #3: Airport Rd & Miley Rd Intersection

We questioned the assumption of 5% of site trips using Airport Rd to access 1-5, and the lack of analysis of the Airport & Miley Rd intersection. The memo provided further explanations regarding how trip distribution was determined. Further, the memo outlined that the number of trips added to the intersection would not be sufficient to trigger analysis per guidelines in our Roadway Standards.

Comment # 4: Safety Improvements

The memo pointed out that significant signal improvement projects are planned that will include safety upgrades such as those we have suggested.

Overall, we find that the memo adequately addressed our concerns, and we have no further comments.

Oregon Department of Transportation (ODOT) Region 2 commented:

ODOT Region 2 Traffic has completed our review of the submitted revised TPR analysis (dated February 1, 2019) and the proportionate share evaluation (dated February 22, 2019) to address traffic impacts due to the proposed rezone (Exclusive Farm Use to Public) and development of the 20-acre parcel on the east edge of the Aurora State Airport in Marion County, with respect to consistency and compliance with current versions of ODOT's Analysis Procedures Manual (APM). Both versions of the APM were most recently updated in November 2018. Current versions are consistently published online at: <http://www.oregon.gov/ODOT/TD/TP/Pages/APM.aspx>. As a result, we submit the following comments for the County's consideration:

Analysis items to note:

- Region Traffic assumes all land uses and densities offered under both the current and proposed zones are consistent with the County's code as cited in the report.
- Proportionate Share Evaluation, Page 3 - Within the narrative, there is a reference error with regards to Table 3.

Recommended analysis items to be addressed:

1. Proportionate Share Evaluation, Table 2, Airport Road/Amdt Road intersection – Per Figure 2 of the revised TPR analysis, the "Existing Volume" for the AM peak hour should be 1,636 rather than 1,672. This will increase the "Proportionate Share" from approximately 5.4% to approximately 5.6%.
2. Proportionate Share Evaluation, Table 3, Airport Road/Amdt Road intersection – As a result of above comment #1, the "Proportionate Share Contribution" should be \$83,435 rather than \$81,639.

Proposed mitigation comments:

3. ODOT maintains jurisdiction of the Wilsonville-Hubbard Highway No. 51 (OR-551) and ODOT approval shall be required for all proposed mitigation measures to this facility.
4. OR-551/Amdt Road – Install a dedicated left turn lane on the eastbound and westbound approaches and construct all necessary traffic signal modifications: Approval for the proposed signalized turn lanes are required under the authority of the State Traffic-Roadway Engineer with support from the County and Region Traffic. At the time any official request is submitted to Region 2 Traffic, the request shall include an operational and queuing analysis, preliminary design layout, and a preliminary signal operations design (PSDOD).

Thank you for the opportunity to review this revised TPR analysis and the proportionate share evaluation. As the analysis files were not provided, Region 2 Traffic has only reviewed the submitted report. This revised TPR analysis and proportionate share evaluation have been, for the most part, prepared in accordance with ODOT analysis procedures and methodologies. No further analysis work should be required (other than updating Table 2 and Table 3 of the proportionate share evaluation). The mitigation measures recommended within this study may be expected to acceptably mitigate traffic effects of the proposal. Additional work may be required to accompany approval requests for proposed mitigation measures (i.e. operational and queuing analysis, preliminary design layout, preliminary signal operations design, etc.). (Emphasis in the original.)

Oregon Department of Aviation (ODA) commented:

The proposed application is to develop a parcel of property located at 22515 Airport Road NE in Aurora (T4S; R1W; Section 02D; Tax Lots 800 & 900). Although there is no specific development proposal with this application the Department requests the County to include general conditions of approval for this and for further development proposals.

- The applicant and subsequent interested parties shall obtain a Through The Fence (TTF) agreement with the Department if access to enter inside the airport boundary, as defined in ORS, at the Aurora State airport- this includes apron, taxiway and runway access, (per ORS 836.640-642)

- Prior to issuance of a building permit the applicant must file and receive a determination from the Oregon Department of Aviation as required by OAR 738-070-0060 on FAA Form 7460-1 Notice of Proposed Construction or Alteration to determine if the structure will pose a hazard to aviation safety. A subsequent submittal may also be required by the FAA due to its location at the Aurora State Airport.
- The height of any new structures shall not penetrate FAA Part 77 Imaginary Surfaces, as determined by ODA and the FAA. (per ORS 836.530 and OAR 738-0070)
- Any external lighting should be adjusted or shielded as to not interfere with tower, aircraft or airport operations. (per ORS 836.530 and OAR 738-0070)
- Marking and Lights, per FAA Advisory Circular, may be needed to identify structures. (per ORS 836.530 and OAR 738-0070)
- Coordination with the Department of Aviation and the Aurora Air Traffic Control tower may be needed to issue a NOTAM during any site construction.

ODA appreciates the opportunity to comment on this application. The Department requests to be identified as a party of record for any future land use application.

Oregon Department of Land Conservation and Development (DLCD) informed the county that it received notice of the proposal but offered no comments on the proposal.

Other contacted agencies failed to respond or stated no objection to the proposal.

V. Additional Findings of Fact and Conclusions of Law

1. This is a recommendation to the Marion County Board of Commissioners (BOC). The BOC is the final decision making authority.
2. Applicant has the burden of proving by a preponderance of substantial evidence in the record as a whole that all applicable standards and criteria are met. As explained in *Riley Hill General Contractor, Inc. v. Tandy Corporation*, 303 Or 390 at 394-95 (1987):

'Preponderance of the evidence' means the greater weight of evidence. It is such evidence that, when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If, upon any question in the case, the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve that question against the party upon whom the burden of proof rests. (Citation omitted.)

Applicants must prove, by substantial evidence in the whole record, it is more likely than not that each criterion is met. If the evidence for any criterion is equally likely or less likely, applicants have not met their burden and the application must be denied. If the evidence

for every criterion is in applicants' favor, then the burden of proof is met and the application must be approved.

GOAL EXCEPTIONIONS

3. Applicant plans to develop the subject property with airport-related commercial and industrial uses. To execute the development plan, applicant asks the Marion County Board of Commissioners (BOC) to take an exception to Statewide Planning Goal 3, Agricultural Lands, to remove goal 3 restrictions, and an exception to Statewide Planning Goal 14, Urbanization, to allow an urban level of development on rural lands.
4. OAR 660-004-0005(1) defines an exception as a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
 - (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
 - (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
 - (c) Complies with ORS 197.732(2), the provisions of [OAR 660-004] and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.

The proposed exceptions are for a specific situation at this 16.54-acre property and do not establish planning and zoning policy generally. OAR 660-004-0005(1)(a) is met. Applicant proposes airport-related uses not allowed or conditionally permitted on property designated Primary Agriculture and zoned EFU. OAR 660-004-0005(1)(b) is met.

Under ORS 197.732(2), a local government may adopt an exception to a goal if:

- (a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;
- (b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) The following standards are met:
 - (A) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (B) Areas that do not require a new exception cannot reasonably accommodate the use;
 - (C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce

adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Applicant does not propose physically developed or irrevocably committed exceptions under (a) or (b). Applicant requests reasons exceptions to goals 3 and 14. ORS 197.732(2)(c) standards are addressed under OAR 660-004 for the goal 3 exception, and under OAR 660-014 for the goal 14 exception. Compatibility is discussed below.

GOAL 3

- 5. Statewide Planning Goal 3, Agricultural Lands, to preserve and maintain agricultural lands, applies to the subject property. Under OAR 660-004-0022, a reasons exception can be taken for any use not allowed by the applicable goal. Airport-related commercial and industrial uses are not allowed under goal 3. OAR 660-004-0020 and -0022 apply to goal 3 reasons exceptions. Non-industrial airport-related uses are examined under OAR 660-004-0022(1). Though applicant is not asking for industrial designation or zoning, some proposed uses may be considered industrial uses, so OAR 660-004-0022(3) is examined for industrial type uses. If reasons for taking a goal 3 exception are found under OAR 660-004-0022, OAR 660-004-0020's additional goal exception processes and requirements are examined.

OAR 660-004-0022(1)

- 6. OAR 660-004-0022(1) states reasons shall justify why the state policy embodied in the applicable goal (preserving and maintaining agricultural lands) should not apply. Reasons include but are not limited to:
 - (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either
 - (A) A resource upon which the proposed use or activity is dependent can be reasonably obtained at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
 - (B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

These options provide guidance on other acceptable exception reasons. Here, goals 9, Economic Development, and 12, Transportation, appear applicable or potentially applicable to this request for a goal 3 reasons exception. The purpose of goal 9 is to provide adequate opportunities throughout the state for a variety of economic activities vital to the health,

welfare, and prosperity of Oregon's citizens. OAR 660-009 applies within urban growth boundaries (UGBs), but does not restrict planning for industrial and other employment uses outside of UGBs. MCCP economic development goal (a) is to provide increased employment opportunities for all residents of Marion County. Applicant provided the most recent economic data related to Aurora Airport from the 2014 ODA Oregon Aviation Plan. Applicant's exhibit N. The Aurora Airport portion of the plan shows that the airport then accounted for 1,087 on-site jobs and \$72,268,000 in wages. Additional airport-related development at the subject property would add more jobs and economic growth in Marion County, and advance county economic development goal (a). The airport development portion of Statewide Planning Goal 12, Transportation, and ORS 836.600 to 836.630, are implemented by OAR 660-013. ORS 836.608(1) recognizes that the continued vitality of airports is a matter of state concern. OAR 660-013-0010(2) recognizes that the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airport is located.

Airport-related uses, generally, require locations proximate to airports. Many airport-related uses already exist at or adjacent to Aurora Airport, and continuing this pattern is recognized in the 2012 Aurora State Airport Master Plan¹ as the way to grow the airport into 2030. The subject property was shown on 1976 Aurora State Airport Master Plan illustrations as land acceptable for airport-related development. Applicant's exhibit O. The 2012 Aurora State Airport Master Plan looks at airport development alternatives; a no-build and three build concepts. The visual representation of each concept includes the subject property as private property suitable for airport use. But, if the hearings officer is interpreting the master plan correctly, none of these alternatives were adopted, and additional scenarios were examined. The plan notes that, within the 20-year planning period, the projected need for land not already zoned public will be just five acres, and also that demand may turn out to be more, or less. It found, the church property "is a logical area for excess demand to be met because it is adjacent to the Airport and on the Airport side of Airport Road." (Pages 5-25 through 5-26.) The plan then states:

Although previous discussions identified the adjacent church camp property proposed as a potential location to meet this forecasted need, through the public involvement process, it was determined that it would not be identified on the Airport Layout Plan as future airport-related property. (Page 5-26.)

Exhibit ES-1 of the master plan's executive summary, is an airport illustration labeled, Preferred Alternative, that identifies the subject property "MISSIONARY MEMORIAL CHURCH" and not as suitable or acceptable for airport-related use.

Brief testimony at hearing and a mention in the written record claim the 2012 airport master plan relied on by applicant was not properly approved. The airport master plan may not strictly apply to this property because it is not within the master plan boundaries, but

¹ The Aurora State Airport Master Plan is variously called the 2012 and 2013 master plan throughout the record. The date on the face of what was presented as the latest airport master plan is dated 2012, and BOC resolution 13R-13, adopting the plan as a part of the MCCP, refers to it as the 2012 master plan. The hearings officer refers to the plan as the 2012 Aurora State Airport Master Plan.

the master plan provides guidance for evaluating this proposal. **The hearings officer recommends applicant address the status of the master plan at the BOC hearing, and, if not already in the record, ensure the BOC has a full and final copy of the master plan document.**

ODA comments in the record do not oppose the application, but request conditions of approval for "this and for further development proposals." Applicant has no objection to ODA's requested conditions. The record also shows several supporters with aviation ties, cite a need to expand uses at or near the Aurora Airport, and applicant notes several users are interested in locating at the property: a construction company with helicopters used to deploy work crews to emergency situations; Life Flight national headquarters; and a resiliency response center that would consolidate emergency services and include an emergency operations center and on-site fire station.

Some information in the record weighs in favor of finding reasons for the exception. The subject property is bordered by P zoned airport-related properties north, west and south, and is the last remaining undeveloped property with taxiway easement and the opportunity for TTF access to the runway, taxiways and aprons, making it a logical parcel for eventual airport-related development. There is also a long history of assumptions that the property is needed for future development, going at least as far back as the 1976 airport master plan. And, there is committed aviation community interest in establishing uses at the site.

Weighing against the exception, is the 2012 Aurora State Airport Master Plan that finds meeting 2030 airport goals requires only five additional acres of land beyond that already zoned P to fulfill projected plan needs, and the removal of the subject property's status as suitable or acceptable for airport development from the plan's favored option. The hearings officer believes more information is needed to show why proposed uses require runway access and need locating on the subject property.

Additional information would benefit BOC consideration of whether reasons exist to take a goal 3 exception under OAR 660-004-0022(1).

OAR 660-004-0022(3)

7. Some potential airport-related uses could be classified as industrial, so applicant looked at OAR 660-004-0022(3), rural industrial development, when evaluating the reasons exception for the site. Under OAR 660-004-0022(3), for siting industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to:
 - (a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

- (b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or
- (c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.

These examples provide guidance on acceptable exception reasons. Many reasons for potentially allowing non-industrial uses of the subject parcel also apply to industrial uses. Proposed airport-related uses, including industrial uses, generally require location proximate to an airport. The subject property was identified in the 1976 Aurora State Airport Master Plan, as land acceptable for airport-related development. The 2012 Aurora State Airport Master Plan looks at airport development alternatives; a no build and three build concepts. Each concept includes the subject property as private property suitable for airport use. None of these alternatives were apparently adopted, and the plan looked at two additional scenarios. The 2012 plan found the 20-year planning period projected need for only five acres of land not already zoned public, but also recognized that demand could be more, or less. The plan found, the church property "a logical area for excess demand to be met because it is adjacent to the Airport and on the Airport side of Airport Road" but determined the church property would not be identified on the airport layout plan as future airport-related property. The preferred alternative plan, at exhibit ES-1 of the plan executive summary, does not show the subject property as suitable or acceptable for airport-related use, but simply labels the property as Missionary Memorial Church. The airport master plan may not strictly apply to this property, but it can provide guidance in evaluating applicant's proposal, making it important for applicant to make sure the BOC has a full and final copy of the document to consider.

ODA comments in the record do not oppose the application, and request conditions of approval for "this and for further development proposals." Applicant agrees to ODA's requested conditions. The record shows several supporters with aviation ties assert a need to expand uses at or near the Aurora Airport. Applicant notes that a construction company with helicopters to deploy work crews to emergency situations is interested in moving to the site, that Life Flight is contemplating moving its national headquarters there, and a resiliency response center is being considered that would consolidate emergency services on the subject property.

Some information in the record weighs in favor of finding reasons for the exception. The subject property is bordered by P zoned airport-related properties north, west and south, and is the last large undeveloped property with taxiway easement and the opportunity for TTF access to the runway, taxiways and aprons. There is also a long history of assumptions that the property is needed for future development, going at least as far back as 1976. And, aviation-related users appear committed to or interested in establishing uses at the site.

Still, the 2012 Aurora State Airport Master Plan finds meeting the airport's 2030 goals requires only five additional acres of land beyond that already zoned P, and the plan removed the subject property's annotation as suitable or acceptable for airport development from its favored option. The hearings officer believes more information is needed to show why proposed uses require runway access and must be located on the subject property. Also, applicant should describe whether any of the proposed industrial uses will generate visible smoke or vapor, or other emissions that might negatively affect airport operations. **If the BOC finds reasons for an exception for industrial uses, it may consider requiring individual conditional use permitting for those uses.**

OAR 660-004-0020

8. Under OAR 660-004-0020:

- (1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-000(1), rules in other divisions may apply.
- (2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of these factors:
 - (a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;
 - (b) "Areas which do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:
 - (A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;
 - (B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

- (i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?
 - (ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?
 - (iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?
 - (iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?
- (C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.
- (c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a Goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be

addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

- (d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.
- (3) [This subsection deals with multiple exception areas. The subject proposal is for only one 16.54-acre exception area. This subsection is not applicable.]
- (4) [This subsection considers exceptions in unincorporated communities. The subject property is not in an unincorporated community. This section is not applicable.]

OAR 660-004-0020(1) - Comprehensive plan exception.

- 9. If the goal 3 exception is approved, the comprehensive plan will be amended, and will incorporate BOC findings justifying the exception. OAR 660-004-0020(1) will be met.

OAR 660-004-0020(2) - Four standards.

- 10. *(a) Reasons.* V(6) and (7) findings above are incorporated here and show applicant provided substantial evidence that airport-related uses must generally be located proximate to airports, that some uses require an on-airport or TTF location. However **more information is needed to show why proposed uses require runway access and necessitate a full 16.54 acres at this airport.** If sufficient information is provided showing reasons why property of this size is needed, then location on resource zoned land may be needed, and if the analysis below finds the use cannot be sited on already excepted lands, then reasons likely justify why state agricultural policies should not apply to the proposed 16.54-acre exception site.
- 11. *(b) Areas not requiring new exceptions.* Airport-related uses generally require proximity to an airport. Applicant surveyed available lands at or near Aurora and other airports within about a 25-mile range. The perimeter was chosen based on an approximate 30-minute driving distance from Aurora Airport to airports with similar uses. The area includes Hillsboro Airport, McMinnville Municipal Airport, Portland International Airport (PDX), Mulino State Airport, McNary Field in Salem and Troutdale Airport. PDX, Hillsboro, and Troutdale are owned by Port of Portland; Mulino and Aurora are state-owned; and McMinnville and McNary are city-owned. Applicant's study area is large enough to contain sufficient comparative airports, and is appropriate for evaluating the proposed goal 3 exception.

(A) Location. Marion County Assessor's map 04S1W02D in the record highlights the proposed exception area (tax lots 800 and 900). The parcel is also depicted on an aerial photograph in applicant's narrative statement and elsewhere in the record. Locations of

study area airports are shown roughly on an aerial photograph at applicant's exhibit T, and depictions and descriptions of individual comparative properties are also provided.

(B) Reasonably accommodate in other areas.

(i) Nonresource land not requiring an exception. Applicant looked for commercial, industrial and, in Marion County, P zoned property within the study area that might accommodate airport-related uses. Applicant owns an undeveloped, 4.52-acre, P zoned parcel adjacent to the taxiway at the Aurora Airport (Assessor's Map 041W02D TL 1700). Applicant states the parcel is too small for the contemplated development and is already committed to two 42,912 square foot hangars, one of which has already been purchased. With each hanger taking up nearly an acre each, the 4.52-acre parcel likely cannot reasonably accommodate applicant's proposed airport related uses. Applicant also consulted real estate listings and contacted the Aurora Airport manager and found no other parcels available at the airport.

Applicant also looked at properties on or near alternative airports in the study area. Applicant contacted the airport managers and received no positive response about on-airport lands. Applicant also searched various real estate listings for airport-adjacent industrial or commercial zoned parcels of 10 acres or more within a UGB. The ten-acre parcel size reasonably acknowledges that a smaller development may work for applicant's purposes. The search turned up two available properties; one in Salem and one in Hillsboro. The Salem property is a 12.45-acre, industrial zoned parcel on 25th Street, a City of Salem major arterial roadway. The parcel is across the road from McNary Field. Location across 25th Street means no immediate runway access for hanger and other uses needing on-site location. The Hillsboro UGB site is an 18.73-acre, industrial zoned property at 5340 NW 253rd Avenue, one-half mile from Hillsboro Airport; also making runway access a problem.

Close proximity to an airport makes sense for airport-related uses, and hangars likely need direct access to a runway, but applicant should provide more information on why other proposed uses would require direct runway access. UGB only land was not a requirement of this criterion, so applicant should also look at non-resource zoned land outside of UGBs. **Applicant should explain why ten acres of direct runway access is required for the development, and provide an analysis of non-UGB, non-resource properties to show whether other properties can reasonably accommodate proposed airport-related activities.**

(ii) Resource land already committed to nonresource use. Applicant established that at least the hanger portion of the proposed use can only be accommodated on or adjacent to an airport, and with runway access. No urban or rural communities in Marion County are near airports. Rural and urban unincorporated communities in Marion County are not reasonable alternatives. It is not clear whether unincorporated communities in the rest of the study area are available.

Applicant points out that Marion County does not have a system in place for showing resource land committed to non-resource uses, and notes that, "a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not

required of local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding." The vicinity applicant chose to look at is a large, multi-jurisdictional area with several airports to evaluate. Applicant may not need to address specific sites, but must still show why, generally, no other resource land at or adjacent to airports within applicant's study area is a reasonable alternative to the subject property. **Applicant needs to provide the BOC substantial evidence to allow evaluation of this criterion.**

(iii) Within an urban growth boundary. Applicant has shown, in its OAR 660-004-0020(2)(b)(B)(i) analysis above that land within an urban growth boundary may not be available to accommodate the use as proposed because 10-acre UGB properties at, or adjacent to, an airport is not available. While applicant established that runway access is required for at least the hanger portion of the proposed development, applicant has not shown why 10 acres of direct airfield access is needed for other uses. If ten acres is not needed, other parcels not examined may be suitable for the use. **With sufficient explanation of whether and why ten acres of direct airport access is needed, applicant may show UGB properties cannot reasonably accommodate proposed airport-related activities, and this criterion might be satisfied.**

(iv) Public facilities. The subject property is within the Aurora Fire District and can receive Aurora Airport Water Control District (AAWCD) services. AAECDC is a municipal corporation purposed with constructing, operating, and maintaining a fire suppression system at the airport. The system has existing 10" and 8" water mains proximate to the subject property. Applicant also notes that a resiliency center, with emergency operations center and fire station is under consideration for the subject property. The Marion County Sheriff's Office provides law enforcement in the area.

Public non-fire-suppression water service is not provided in this area, but an on-site well can provide potable water for the development. The well was tested and found to be a high-volume producing well with good quality water, but arsenic was present in the water at a rate above the US Environmental Protection Agency (EPA) maximum contamination level. A pump and filtration system was designed to provide adequate flow and necessary water quality for the site, and maintenance, service and a certified water systems operator would be provided. Exhibit 1.

No public sewer service is available and standard on-site wastewater disposal is not feasible. Applicant examined alternatives to standard septic systems, and favors tying into the digester system on the Southend Airpark property to the west. Other possible alternatives include having a holding tank and trucking wastewater off the site, or procuring off-site drainfield facilities. Reusing water for plant watering and toilet flushing is also being considered to reduce the amount of water going into the wastewater disposal system. Applicant has shown there are feasible options are available for wastewater disposal.

The subject property will have at least one direct access to Airport Road, though the site plan shows two direct accesses. **Access issues should be further addressed at the BOC hearing.** A February 2019 transportation impact analysis (TIA) submitted as applicant's exhibit X examined the sufficiency of the surrounding public transportation system and proposed mitigation measures. The February 2019 TIA described the proposal as a 20-acre development, and used a 100,000 square foot church as a worst case EFU traffic scenario for the subject property. Comments critical of trip generation estimates and trip distribution assumptions were received and applicant revisited these issues. An April 2019 revised TIA (exhibit 3) for the 16.54-acre development further explained trip distribution assumptions and revised trip generation estimates.

The February TIA estimated 631 daily trips attributable to a large church as the EFU zone worst case scenario. The April TIA estimated 341 trips attributable to a 5,000 square foot farm stand/nursery as the EFU zone worst case scenario. Both TIAs estimated 1,592 daily trips attributable to the proposed development, translating to a 961 trip count increase in the February TIA, and a 1,251 trip count increase in the April TIA. Because of the TIA revision, disputed issues with the February TIA are not further addressed.

The April TIA found several intersections in the Aurora Airport area were already operating at an unacceptable level of service (LOS): The Airport Road/Arndt Road intersection failed to meet Marion County operating standards in the AM and PM peak hours, the OR-551/Arndt Road and OR-551/Ehlen Road intersections failed to meet ODOT standards in AM and PM peak hours, and the Airport Road/Ehlen Road intersection failed to meet Marion County standards in the PM peak hour. The analysis found these intersections would continue to fail over the short and long term, even in a no-build scenario. In the short term build scenarios, the two OR-551 intersections and the Airport Road/Ehlen Road intersections would be further degraded, and in the long term, all intersections would be further degraded.

Mitigation measures for the Airport Road/Arndt Road intersection were phrased differently in the April TIA, but remained the same as in the February TIA: Install a dedicated right turn lane on the westbound approach, and construct necessary traffic signal modifications.

Mitigation measures for the OR-551/Arndt Road intersection were also phrased differently in the April TIA, but remained the same as in the February TIA: Install a dedicated left turn lane on the eastbound and westbound approaches, and construct necessary traffic signal modifications.

No OR-551/Ehlen Road intersection mitigation measures were proposed in the February TIA, but were added in the April TIA: Install dedicated left turn lanes on the eastbound and westbound approaches, and construct necessary traffic signal modifications.

Mitigation measures for the Airport Road/Ehlen Road intersection were upgraded in the April TIA: Install left turn lanes on the southbound and eastbound approaches, install a right turn lane on the westbound approach, and signalize the intersection.

Marion County public works did not comment during the open record period, but applicant orally presented revised TIA findings at hearing. MCPW did not dispute the findings but stated applicant's proportional shares may be higher as a result of the new TIA. MCPW also acknowledged that specific details were not nailed down as of the time of hearing, but said that MCPW requested condition B should adequately cover the issue. The hearings officer believes MCPW's proposed condition B is too different from the TIA to be imposed as written. The condition would allot money to a new cut-off road, "Boones Ferry Road/Ehlen Road intersection, and construction of a new local county road connecting OR551 and Boones Ferry Road as identified in the 2018-2021 Oregon Statewide Transportation Improvement Program under Project Key 18664..." This project was not identified in the TIA nor mentioned in ODOT comments. This is not to say contribution to the project is inappropriate, but no justification for contribution to the project has been shown.

MCPW also proposed engineering condition A for issuing, designing and obtaining a major construction permit for rural type frontage improvements along the Airport Road frontage of the subject property, anticipated to include vegetation clearing, gravel road shoulder, slope and open system drainage work. This work would involve relocating the existing roadside ditch further west to allow a five-foot gravel shoulder along the property's Airport Road frontage. Applicant did not object to this requirement which would improve roadway safety in the area.

Exhibit 8 is a letter from Clackamas County Transportation Engineering acknowledging the TIA revisions and finding, overall, that Clackamas County's concerns were adequately addressed.

Exhibit 10 is a letter from Joseph Schaefer asserting that the revised TIA still over counts the number of trips attributed to the EFU zone worst case development scenario. According to Mr. Schaefer, ITE code 817 used by applicant to estimate EFU zone trips is not comparable because ITE trip samples were taken in general urban/suburban locations, and because these types of stores could not operate in a rural location, and would not be similar. He also noted that retail nursery and garden stores, unlike most rural farm stands, operate year around rather than seasonally. Mr. Schaefer also asserts that the examples of 5,000 square foot farm stands provided by applicant do not accurately reflect farm stands or nursery/garden stores because they are not located in urban/suburban locations, are wholesale businesses or provide entertainment. Applicant points out that ITE codes are mostly based on urban/suburban traffic counts, including the office and warehousing figures used to estimate trips attributed to applicant's proposed use. In applicant's view, the use-to-use ratio would remain the same and the result would still be accurate.

Neither applicant nor Mr. Schaefer referenced a farm stand ITE code, so it is likely there is none and a substitute is required. Clackamas County is just north of the airport and has an interest in protecting its roadway system, which will be impacted by applicant's proposal, but Clackamas County's Transportation Engineering section found the updated TIA sufficient. The new TIA, more likely than not, adequately addresses traffic issues.

While some transportation issues were not fully settled by close of record, and intersection improvements may not occur immediately, applicant will provide a proportionate share of money contributions for identified issues, which will lead to necessary transportation improvements. Applicant calculated its proportionate share contribution for roadway improvements at \$475,409. No one has faulted applicant's calculation methodology or resulting amount, and applicant's frontage improvements will immediately contribute to roadway safety. **Additional traffic and other service-related input should be submitted to help the BOC determine whether the proposed use can be reasonably accommodated without provision of transportation-related or other public facilities or services at this site.**

12. (c) Environmental, economic, social, and energy (ESEE) consequences compared with other potential exception sites. This criterion requires comparison with other resource sites that would also require a goal exception. No detailed evaluation of specific alternate sites is required if not brought up during the local exception process. Applicant brought up two specific properties, but neither site is resource zoned and according to applicant, both are within UGBs. Other participants did not bring up site specific comparisons. Specific sites may not need to be detailed, but applicant must still see if any of the named airports in the study area are adjacent to resource zones. If not, no comparison may be needed, but if there are, comparison is required. Still, this site will be looked at here.

Public and private lands dedicated to airport and airport-related uses at the Aurora Airport are designated Public and Semi-Public and zoned P. The subject property is bordered by P zoned airport-related properties on three sides, and bordered by the 60' Airport Road right-of-way on the other side. The subject property was the site of a Methodist church camp and later a religious retreat, training center and church. The property has not been in resource use for several decades, and is not specially assessed for farm or forest use. The property is developed with a house of worship, two dwellings, a number of cabins, a meeting hall, snack bar, and an office building, along with roads, parking areas, well, several septic systems, and infrastructure for electricity and gas service. Remediation would likely be required to make the parcel suitable for resource use. The property was earmarked for future airport development in 1976, but not specifically cited for airport use in the 2012 airport master plan's final preferred scenario.

Environmental. No MCCP-identified geohazard, floodplain, big game habitat, wetland, sensitive headwater or stream areas are on the property. It was noted the subject property is in an area identified as subject to liquefaction during a major earthquake event. Applicant engaged GeoDesign, Inc. to evaluate the issue. The report, at exhibit 3, states an understanding that geologic hazard maps indicate the subject property is susceptible to liquefaction and soil amplification during an earthquake, and cites to 1999 Relative Earthquake Hazard Maps. The maps assigned a Zone B (intermediate to high hazard) to the southern portion of the airport. GeoDesign conducted an exploration and a geotechnical report for the Lima North Hanger site, 800' west of the subject property, and are completing a geotechnical report for an airport-related fuel farm 2,000' southwest of the subject property. GeoDesign looked at information from its work at both sites and completed "one boring and one cone penetration (CPT) probe" on the subject property for purposes of their preliminary report; noting that further exploration would be done upon

site development. The preliminary opinion is that the subject property can be developed as proposed. The report notes that geology and subsurface conditions at the Lima Hanger, fuel farm and subject property are relatively similar...silt and silty sands with variable amounts of clay. Generally, the silt is stiff to very stiff and the sand medium dense to very dense. A layer of loose material was found on the fuel farm site. The study estimated total post-liquefaction settlement would be less than an inch, and differential settlement less than one-half of total liquefaction. The study found land spreading was not a design concern, and stated that no soils capable of significantly amplifying ground motions were encountered. The preliminary report is positive, and not challenged.

On-site subsurface wastewater disposal is not feasible, but applicant provided information on feasible alternative disposal methods as noted above and adopted here.

Economic. As noted in the goal 9 evaluation above, in 2014 the Aurora Airport accounted for 1,087 on-site jobs and \$72,268,000 in wages. Additional airport-related development at the subject property would add more jobs and economic growth in Marion County, and would advance county economic development goal (a). ORS 836.608(1) recognizes that the continued vitality of airports is a matter of state concern. OAR 660-013-0010(2) recognizes that the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airport is located.

Social. Social impacts could include added noise and traffic attributable to the proposed comprehensive plan and zoning change. Traffic issues were discussed above and are adopted here. Applicant stated Marion County Noise Ordinance standards could be applied as part of the conditional use, but there may be more specific airport noise related standards that could apply. **Applicant should provide more information on anticipated noise generation and feasible mitigation measures if implicated.**

Energy. Aurora Airport is situated near I-5, which leads to other major travel routes, allowing more direct access to markets with fewer miles traveled and greater fuel efficiency. And, airport users would not have to travel off-site for airport and airport-related services.

13. *(d) Compatible with adjacent uses.* Applicant submitted a list of proposed airport-related uses to authorize at the site, but provided no description of what each use might entail. Some are pretty self-descriptive, such as aviation-related office functions, but some, like aero tire manufacturing, need more information to determine whether they are likely to be compatible with surrounding airport-related and farm uses. The 60' Airport Road right-of-way to the east provides some buffer between the subject property and farm operations. Two farm operators with fields in the airport area submitted letters to the record. One operator supports the proposal, stating that airport-related use, rather than any farming use, would be the highest and best use of the property. The other farm operator states the zone change is logical and farm operations generally have no problems with the request, but also stated concern for transportation issues the proposal would bring to an already stressed road system. The farm operator notes that high volume, high speed rush hour traffic already cause dangerous conditions at the operator's four farm entrances on Airport

Road. Airports may also not be compatible with farm uses if agricultural practices include water impoundments or otherwise attract birds, which can be a threat to aviation.

A resident living in an area south of the airport commented on disturbing noise generated by more than occasional helicopter traffic from the US LEASCO property on Keil Road. The list of uses submitted by applicant includes aviation forest fire-fighting facilities which can include helicopter operations. The county's Airport Overlay Zone applies safety standards to airspace surrounding and approaching the airport, but the Federal Aviation Administration (FAA) regulates flight patterns, which may impact noise levels at nearby residences. OAR 340-035 contains Oregon Department of Environmental Quality (DEQ) noise control regulations, but the rules are not enforced by the state because the program is not funded. The BOC could make meeting the rules a condition of any approval but it is not clear whether the 1974 rules concerning airports are compatible with current aviation regulations. The Marion County noise ordinance might be applied as a condition of approval but it is not clear whether any aviation-related rules would prevail over the local rules. **Applicant should determine what noise-related laws or regulations may apply, and provide the information to the BOC. More information is needed to determine compatibility with surrounding uses.**

OAR 660-004-0018

14. OAR 660-004-0018 covers planning and zoning in exception areas. Exceptions to one goal do not relieve the county from requirements of other goals. Statewide planning goals are addressed below. OAR 660-004-0018(4)(a) applies when local governments take reasons exceptions under ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022. Under the rule, plan and zone designations must limit uses, density, public facilities and services, and activities to only those justified in the exception. Applicant seeks a Public and Semi-Public MCCP designation and P zoning for the 16.54-acre exception area, along with a conditional use for a list of specified airport-related uses, which may implemented by a limited use overlay zone. Any uses ultimately allowed or conditionally permitted, will be justified in this exception. Other uses would require future reasons exceptions.

GOAL 14

15. The purpose of goal 14 is to provide for an orderly transition from rural to urban land use. The subject property is zoned EFU for rural uses, but the proposed use is an urban use. See *Murray et al. v. Marion County*, 23 OR LUBA 268 (1992). A goal 14 exception under OAR 660-014 is required to authorize urban use of EFU zoned land. OAR 660-014-0040 applies.
16. Under OAR 660-014-0040:
 - (1) As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed

exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

- (2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.
- (3) To approve an exception under section (2) of this rule, a county must also show:
 - (a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;
 - (b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:
 - (A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and
 - (B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.
 - (c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:
 - (A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and
 - (B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.
 - (d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

- (e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.
- (4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception area that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197. 714.

The large goal 3 study area ran from Salem to Portland to bring in several airports for study. There is no requirement for the goal 3 and 14 study areas to be the same. Applicant looked at Marion County when considering goal 14, and it makes sense to narrow the study area when looking at potential urbanization of Marion County land. The more narrow study area is appropriate.

- 17. *Undeveloped rural land.* The subject property is not within an urban growth boundary, but contains buildings and infrastructure from a former retreat, church and training facility. No goal 3 exception was taken for the prior use, and the property is not committed to urban development. The property is undeveloped rural land under OAR 660-014-0040(1).
- 18. *Reasons justify.* Proposed airport-related uses are not dependent upon an adjacent or nearby natural resource, but airport-related uses are generally dependent on proximity to an airport. Aurora State Airport development abuts the subject property on three sides. The Aurora Airport is developed with urban type airport uses and, in the past, the subject property has been shown on airport master plans as suitable for airport-related activities. A reasons exception to goal 14 may be taken under OAR 660-014-0040(2) if other OAR 660-014-0040 requirements can be met.
- 19. *Not reasonably accommodated in UGB or rural community.* This proposal is for airport-related uses, and none of the county's urban or rural unincorporated communities are near an airport. The unincorporated community option is not feasible. McNary Field and Aurora State Airport are in Marion County. The hearings officer takes notice of the MCPW Marion County road map, published in 2002, showing McNary Field is already well within the Salem city limits and urban growth boundary. No UGB expansion would make more land available at McNary Field. The City of Aurora UGB is about a half mile away from the subject property, with EFU zoned farmland in between, and would also require goal 3 and 14 exceptions for a UGB expansion. In CP/CP/CU 09-005, US LEASECO, the BOC found, for property south of the TLM site, that the City of Aurora originally proposed including the Aurora State Airport in its UGB during the city's acknowledgment process, but that part of the UGB proposal was not approved by the Land Conservation and Development Commission. BOC stated it was unlikely the UGB would be extended out to the airport because resource land would have to be taken out of resource use. Applicant's exhibit M. Conditions do not seem to have changed. OAR 660-014-0040(3)(a) appears met.

20. *EESE not significantly more adverse-appropriate amount of land.* Hanger, office and shop spaces are planned for the subject property, and perhaps an emergency resiliency center. Public and private land is available in the P zone at the airport, but it is scattered through the site, making an integrated operation more difficult to establish. A full 16.54-acre site might not be necessary (applicant looked at 10-acre spaces for comparison purposes under goal 3), but other undeveloped rural land around the airport is in active farm use, while this property has been out farm use for years and is encumbered by buildings, roads, parking areas, six septic systems and other infrastructure. Other lands are not encapsulated by the airport to the extent of this property. The 2012 airport master plan forecasts a need for only five additional urban use acres by 2030, but the plan also acknowledges that more or less land may be needed by that time. Developing the subject property would have fewer negative EESE impacts than development on other undeveloped rural lands around the airport. If the BOC believes 16.54 acres is too much land to develop without need, it might take the US LEASECO approach and only approve part of the property for development.
21. *EESE not significantly more adverse-air, water, energy and land resources.* The subject site will tie into the airport fire suppression system at a nearby hook up. The site will have its own potable water system supported by on-site well. The well was tested and found to be a high-volume producing well with good quality water, but with the presence of arsenic above the EPA maximum contamination level. A pump and filtration system was designed to provide adequate flow and water quality necessary for the site, with all maintenance and service for the system to come under a maintenance agreement, and with a certified water systems operator also provided. Wastewater disposal is more complicated, but applicant presented information, discussed above and adopted here, showing that options other than traditional on-site subsurface disposal are feasible and available for this site. There are no MCCP identified wetlands or streams on the subject property. MacKenzie provided a stormwater report prepared by a registered professional engineer, with attached illustrations and calculations (applicant's exhibit DD), and additional comments from the MacKenzie project manager are attached to exhibit 1. MacKenzie acknowledges the need for stormwater drainage and detention improvements, and for DEQ NPDES permitting. DEQ air quality permitting (or proof that none is required) can be a condition of any approval. Services can be accommodated on-site that will not interfere with air, water, energy and land resources in the surrounding area. EESE impacts on air, water, energy and land resources appear no greater at this site than on other undeveloped rural lands.
22. *Compatible with adjacent uses- Service districts and city services.* It does not appear urban uses at this site will detract from city and service district ability to provide services. The site will provide its own day-to-day water service. The site is within the Aurora Fire District and will tap into the AAWCD airport fire suppression system, and the site is tentatively set up to house an emergency center with on-site fire engines. The City of Aurora will not directly provide other services to the site, but traffic is an issue for the city, and the Airport Road-Ehlen Road intersection is within the city limits. City, state and county roadways are already strained, with some failing at certain peak hours, including the Airport Road-Ehlen Road intersection. The proposed use will add significant traffic to roadways across jurisdictions, but applicant's April TIA proposed mitigation for the Airport Road-Ehlen Road intersection of additional turn lanes and signalization, consistent with the Aurora Transportation System

Plan (TSP). Applicant will contribute a proportional share toward implementing improvements. Improvements may not coincide with development of the subject site. **Traffic related issues should be further discussed at the BOC level.**

Compatible with adjacent uses-Resource management. Non-resource uses are on three sides of the subject property. Resource uses, hay and grass seed, are to the east, across Airport Road. Comments from farm operators in the area did not claim the proposed use itself would negatively affect farm operations, except that additional traffic on Airport Road would exacerbate dangerous conditions at farm entrances during high speed, rush hour traffic times. **Applicant should address this situation.**

23. *Public facilities.* The public facilities discussion in V(11) above is adopted and incorporated here. In short, the subject site would tie into the airport fire suppression system at a nearby hook up and be served by the Aurora Fire Protection District, with a possible resiliency center with fire station locating on the subject property. The subject property will have its own water system supported by on-site well. Options other than traditional on-site subsurface disposal are feasible and available for this site. With improvements and permitting, adequate stormwater management is feasible. Law enforcement service is provided by the Marion County Sheriff's Office.

Transportation issues were not fully settled by close of record, and intersection improvements may not occur immediately, but applicant will provide a proportionate share of money contributions for identified issues, which will lead to necessary transportation improvements. Applicant calculated its proportionate share contribution for roadway improvements at \$475,409. No one has faulted the calculation methodology or amount, and required immediate frontage improvements will contribute to roadway safety. **As noted above, additional traffic-related input should be received at the BOC hearing to help determine whether transportation-related facilities or services will be sufficient.**

24. *Coordinate comprehensive plans.* The proposed development was coordinated with nearby jurisdictions. The 2009 update to the City of Aurora comprehensive plan contains an economic policy about working closely with Marion County, the Oregon Department of Aviation and the Oregon Department of Economic and Community Development to evaluate and balance the net value (cost/benefit) of industrial and commercial potential of the Aurora Airport and surrounding lands, and to strive to minimize potential land use conflicts within the mutual planning area to maximize the livability of the area. The 2009 City of Aurora TSP includes the Ehlen Road-Airport Road intersection in its Needs and Deficiencies section, and notes a failing LOS for southbound turns from the intersection. The county provided notice of applicant's proposal for commercial and industrial airport-related development to the City of Aurora. The city responded in writing and provided testimony at hearing. Applicant acknowledged the city's transportation concerns and provided a modified TIA recommending turn lane improvements and signalization consistent with the city's TSP, but as noted above, **some transportation-related issues must still be addressed.**

The City of Wilsonville Comprehensive Plan was reviewed and appears to have no applicable policies.

Clackamas County Comprehensive Plan policy 5.X.2, is to coordinate with Marion County, the City of Wilsonville, the Oregon Department of Aviation, and other affected agencies to develop and implement the Aurora Airport Plan. Clackamas County was notified of this proposal and provided transportation-related comments that were addressed by applicant's revised TIA.

The MCCP is examined below. **Additional information is needed to determine whether applicable MCCP policies will be met.**

25. *Industrial exception.* The subject property is not in an exception area. OAR 660-014-0040(4) is not applicable.

STATEWIDE PLANNING GOALS

26. As stated in OAR 660-004-0010(3), an exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for proposed uses at an exception site; and the MCCP plan amendments section states that comprehensive plan amendments must be consistent with statewide planning goals. Each statewide planning goal must be examined for compliance.

Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The notice and hearings process before the hearings officer and BOC provide opportunity for citizen involvement. Goal 1 is satisfied.

Goal 2: Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.

Applicant proposes a site-specific comprehensive plan amendment. The Planning Division notified local, state and federal agencies, including FAA, DLCD, ODA, Clackamas County, City of Aurora, City of Wilsonville, Aurora Fire District, North Marion School District and Marion County departments for comment. Comments received are set out above. The BOC will review and accommodate comments to the extent feasible. Goal 2 will be satisfied.

Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.

An exception to goal 3 is requested and discussed above.

Goal 4: Forest Lands. To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The subject property is not in or near a forest zone. This goal is not applicable.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. To protect natural resources and conserve scenic and historic areas and open spaces.

The MCCP does not identify any of these resources on or near the subject property. Goal 5 is not applicable.

Goal 6: Air, Water and Land Resources Quality. To maintain and improve the quality of the air, water and land resources of the state.

The subject site would tie into the airport fire suppression system at a nearby hook up. The subject property will have its own water system supported by on-site well. The well was tested and found to be a high-volume producing well with good quality water, but arsenic above EPA's maximum contamination level was present. A pump and filtration system was designed to provide adequate water flow and quality necessary for the site, with provisions for maintenance and services of a certified water systems operator. Information discussed above and adopted here, shows that options other than traditional on-site subsurface disposal are feasible and available for this site. There are no MCCP identified wetlands or streams on the subject property. A stormwater report by a registered professional engineer, and comments from the project manager acknowledge, and applicant accepts, the need for stormwater drainage and detention improvements, and DEQ NPDES permitting. Adequate stormwater management is feasible for the project. DEQ air quality permitting (or proof that none is required) can be a condition attached to any approval. Goal 6 will be satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

The exception area is not within MCCP identified geologic hazard or floodplain areas, but the site was identified elsewhere as at risk for liquefaction and ground amplification. Applicant submitted a study discussed above, and the hearings officer's findings are adopted and incorporated here, showing that liquefaction and ground amplification will not be a problem at this site. Goal 7 is satisfied.

Goal 8: Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

No Goal 8 resources are identified on or near the subject site or implicated by this application. This goal is not applicable.

Goal 9: Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Goal 9 addresses commercial and industrial development, primarily in urban areas. OAR Chapter 660, Division 009 applies only to comprehensive plans for areas within urban growth boundaries, but goal 9 planning for rural areas is not restricted. As noted above, airports are targeted by the state for economic development, and the proposed development will enhance economic growth in the area, consistent with goal 9.

Goal 10: Housing. To provide for the housing needs of citizens of this state.

OAR 660-008 deals with providing an adequate number of needed housing units, and efficient use of buildable land within urban growth boundaries. The subject property is not within an urban growth boundary and no housing is proposed or allowed under this application. Goal 10 does not apply.

Goal 11: Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

OAR 660-011 implements goal 11 for facilities, including water, sewer and transportation facilities. The OAR mainly addresses a government's adoption of facility plans, which is beyond a land use applicant's control, but it also discusses rural water and septic service. Water service will be supplied by an on-site well and is not subject to the OAR. A sewage system is defined in OAR 660-011-0060(1)(f) as:

[A] system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

(A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;

(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.

This definition might be interpreted to apply to the proposed use of the Southend Airpark sewage disposal system. **Applicant should provide the BOC with information on whether OAR 660-011-0060 requirements are applicable and whether a goal 11 exception might be required.**

Goal 12: Transportation. To provide and encourage a safe, convenient and economic transportation system.

Goal 12 is implemented by OAR 660-012. Under OAR 660-012-0060(1), if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of the rule, unless the amendment is allowed under section (3), (9) or (10) of the rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP [transportation system plan]. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

This proposal involves an MCCP amendment. The proposal will not change the functional classification of an existing or planned transportation facility or change standards implementing a functional classification system. The April TIA, at page 2, finds for intersection operations:

Under 2017 Existing Conditions, the Airport Road/Arndt Road intersection fails to meet the Marion County operating standard in the AM and PM peak hours, the OR-551/Arndt Road and OR-551/Ehlen Road intersections fail to meet ODOT's mobility targets for the AM and PM peak hours, and Airport Road/Ehlen Road intersection fails to meet the Marion County operating standard in the PM peak hour.

In the Short-term (2022) No Build scenario and the Long-term (2037) No Build scenario, the same intersections fail to meet mobility targets or operating standards.

In the Short-term (2022) Build scenario, the OR-551/Arndt Road, OR-551/Ehlen Road, and Airport Road/Ehlen Road intersections are *further degraded* with the addition of the anticipated project trips.

In the Long-term (2037) Build scenario, the Airport Road/Arndt Road, OR-551/Arndt Road, OR-551/Ehlen Road, and Airport Road/Ehlen Road intersections are *further degraded* with the addition of the anticipated project trips.

(Emphasis added.)

The Marion County Rural Transportation System Plan (MCRTSP) was adopted as part of the MCCP in December 2005, and has a planning period ending 2025. The TIA looked at 2022 and 2037 for its short and long term evaluation. Though the TIA does not pinpoint 2025 conditions, it is clear that some intersection conditions will be further degraded in 2022 and at some point beyond 2022, all studied intersections will be further degraded. Mitigation under OAR 660-012-0060(2)(d) appears applicable:

Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. *Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.* (Emphasis added.)

The April TIA proposed these mitigation measures:

For the Airport Road/Arndt Road intersection: Install a dedicated right turn lane on the westbound approach, and construct necessary traffic signal modifications.

For the OR-551/Airport Road intersection: Install a dedicated left turn lane on the eastbound and westbound approaches, and construct necessary traffic signal modifications.

For OR-551/Ehlen Road intersection: Install dedicated left turn lanes on the eastbound and westbound approaches, and construct necessary traffic signal modifications.

For the Airport Road/Ehlen Road intersection: Install left turn lanes on the southbound eastbound and approaches, install a right turn lane on the westbound approach, and signalize the intersection.

Transportation concerns addressed in V(11) above are adopted and incorporated here. As noted above, MCPW did not comment during the open record period but acknowledged at hearing that specific transportation details were not yet nailed down and said that MCPW requested condition B should adequately cover the issue. And, as also noted above, the

hearings officer disagrees that proposed condition B is sufficient to address transportation issues involved here.

Applicant will provide a proportionate share of money contributions, which it calculates at \$475,409, to help provide necessary transportation improvements. But, transportation issues were not settled as of close of record, and the county must specify *when* measures or improvements will be provided under OAR 660-012. **Additional traffic-related input from all parties should help the BOC determine whether goal 12 can be satisfied.**

Goal 13: Energy Conservation. To conserve energy.

Siting airport-related uses at or adjacent to the airport provides permanent and transient services in efficient proximity to users. The site is also proximate to major transportation routes, reducing circuitous travel and saving fuel resources. Goal 13 is satisfied.

Goal 14: Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

An exception to goal 14 is requested and discussed above.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The subject site is not within the Willamette River Greenway, or near ocean or coastal resources. These goals do not apply.

COMPREHENSIVE PLAN AMENDMENT

27. The M CCP does not contain specific review criteria for plan amendments, but plan amendments must be consistent with applicable M CCP goals and policies. The following policies may apply.

Plan Amendment Policy 2: Plan changes directly involving five or less properties will be considered a quasi-judicial amendment. Quasi-judicial amendments may be initiated by the subject property owners.... A Plan amendment application of this type may be processed simultaneously with a zone change request.

This request involves only one parcel and is requested by the property owner. This is a quasi-judicial plan amendment processed with a zone change request. This policy is met.

General Development Policy 3: Rural industrial, commercial and public uses should be limited to those activities that are best-suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.

If goal exceptions are justified, and the P zone is applied, it will allow industrial and commercial airport and airport-related uses. The proposed use would be urban in nature but appropriate for this rural location. This policy can be met.

Rural Industrial Policy 1 deals with farm and forest-related industrial uses and is not applicable.

Rural Industrial Policy 2: Rural industries should be compatible with existing development and farm or forest uses in the vicinity, should not involve a large number of employees, should not require heavy truck traffic through residential areas or on unimproved roads, and should not have the potential to exceed the environmental capacity of the site or require urban services.

Applicant addressed OAR 660-004 industrial policies but not MCCC industrial policies. This policy raises some unique issues and **should be addressed by applicant in the first instance.**

Rural Industrial Policy 3: A non-resource-related industrial use should not be permitted on resource lands, unless an evaluation of the relevant County and State goals and the feasibility of locating the proposed use in an urban growth boundary or rural non-resource lands show that the proposed site on resource lands is the most suitable.

The goal 3 exception analysis showed that the proposed use cannot be sited within an urban growth boundary in Marion County, but found more information is needed to determine whether some proposed uses can be accommodated on non-resource rural lands in the county.

Rural Services Policy 1. The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.

Services and facilities for this proposal were examined above, and if sufficiently addressed before the BOC, including goal 11 issues, this policy can be met.

Rural Services Policy 2. It is the intent of Marion County to maintain the rural character of the areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.

Services and facilities for this proposal were examined above, and if sufficiently addressed before the BOC, including goal 11 issues, this policy can be met.

Rural Services Policy 3. Only those facilities and services that are necessary to accommodate planned rural land uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with maintaining the rural density and character of the area.

Services and facilities for this proposal were examined above, and if sufficiently addressed before the BOC, including goal 11 issues, this policy can be met.

Rural Services Policy 4. The sizing of public or private service facilities shall be based on maintaining the rural character of the area. Systems that cannot be cost effective without exceeding the rural densities specified in this Plan shall not be approved. The County shall coordinate with private utilities to ensure that rural development can be serviced efficiently.

Services and facilities for this proposal were examined above, and if sufficiently addressed before the BOC, including goal 1.1 issues, this policy can be met.

Transportation System Management Policy 7. Land use changes that could result in increased development levels and thus higher traffic levels will be assessed for their impact to current and future traffic volume and flow, and these impacts must be appropriately mitigated (as determined by the Public Works Director in accordance with applicable standards and practices) in order for the development to be allowed.

Transportation impacts were discussed above, and if transportation issues, including goal 1.2 issues, are addressed to BOC satisfaction, this policy will be satisfied.

Transportation Development and Access Policy 7. To prevent exceeding the function and capacity of any component of the transportation system, the County will consider roadway functional classification, capacity and current conditions as primary criteria for proposed changes in land use designations and proposed land use developments. In addition, present and anticipated safety issues shall also be significant criteria.

Transportation impacts were discussed above, and if transportation issues, including goal 1.2 issues, are addressed to BOC satisfaction, this policy will be satisfied.

Transportation Development and Access Policy 8. The County shall review land use actions, development proposals and large transportation projects in the region for impacts to the transportation system and facilities. If the impacts are deemed significant by the County and cannot be mitigated to the County's satisfaction, the action shall be denied or modified until the impacts are acceptable. The County shall also consider the impact these actions have on affected communities and urban areas.

Transportation impacts were discussed above, and if transportation issues, including goal 1.2 issues, are addressed to BOC satisfaction, this policy will be satisfied.

Transportation Development and Access Policy 9. Access to developments must be from roadways with appropriate functional classifications and improved to appropriate standards. (Table 10-3 in the RTSP shows the maximum trip generation for new or expanded developments based on the functional classification and character of the roadway from which it gains access.)

RSTP table 10-3 shows maximum trip generation of developments by functional roadway classification. Airport Road is a major collector road. The table lists 3,000 trips per day as the maximum trip generation allowed by a new or expanded use. According to the TIA, the

proposed use will generate less than 1,300 trips per day. The proposal does not exceed table 10-3 trip generation. This policy is met.

Transportation Development and Access Policy 10(a). The number of access points on arterial and major collector roadways shall be kept to a minimum to reduce the interruption to traffic flow and to promote safety. All new or expanded-use accesses must meet the access management standards in the RTSP (see Section 10.1.3).

Access issues were still up in the air as of the close of record. **This policy should be discussed at BOC hearing.**

Transportation Development and Access Policy 25. All new developments shall be reviewed to ensure that they have an adequate stormwater system. Specific requirements can be found in Marion County's Engineering Standards (or subsequent document).

MCPW outlines drainage and retention requirements, including DEQ permitting. Applicant provided an engineer's report regarding stormwater management and accepted requirements put forth by MCPW. This policy will be met.

Economic development goal (a). To provide increased employment opportunities for all residents of the County.

Applicant provided the most recent Aurora Airport economic data from the 2014 ODA Oregon Aviation Plan. The Aurora Airport portion of the plan shows that Aurora Airport then accounted for 1,087 on-site jobs and \$72,268,000 in wages. Additional airport-related development at the subject property would add more jobs and economic growth in Marion County, consistent with economic development goal (a).

ZONE CHANGE

45. Under MCC 17.123.060, approval of a zone change application or initiated zone change shall include findings that the change meets the following criteria:
 - A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and
 - B. The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and
 - C. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and

D. The other lands in the County already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and

E. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.

46. *Comprehensive plan consistency.* Applicant asks for an MCCP amendment to change the MCCP designation from Primary Agriculture to Public and Semi-Public to allow commercial and industrial airport-related uses. If the MCCP amendment is approved, the proposed P zone would be consistent with the new plan designation. Applicable MCCP policies are discussed above and with additional information, MCC 17.123.060(A) may be satisfied.
47. *Land uses, density and pattern of development.* Airport-related uses take place on three sides of the subject property. Airport-related development might be generally consistent with other airport development, but that may not always be the case. **The hearings officer recommends applicant provide more specific information on potential impacts of proposed uses to help determine compatibility, or require individual conditional use applications as each use is proposed.** Looking at conditional use requirements on a case by case basis will help ensure compatibility under this criterion. **The BOC should memorialize the list of conditionally permitted uses by limited use overlay zone.** If compatibility issues are addressed via individual conditional use permitting, the zone change will, in a sense, complete the pattern of development in the area. **With more information and evaluation, MCC 17.123.060(B) may be satisfied.**
48. *Public facilities, services, and transportation networks.* The public facilities discussion in V(11) above is adopted and incorporated here. In short, the subject site would tie into the airport fire suppression system at a nearby hook up and be served by the Aurora Fire Protection District, and could possibly house a future on-site fire station. The subject property will have its own water system supported by on-site well. Options other than traditional on-site subsurface wastewater disposal are feasible and available for this site, but potential goal 11 wastewater issues need to be addressed. With improvements and permitting, adequate stormwater management is feasible. Law enforcement service is provided by the Marion County Sheriff's Office. Transportation issues were not fully settled by close of record, and intersection improvements may not occur immediately. Timing of improvements under goal 12 needs to be discussed. Applicant will provide a calculated \$475,409 proportionate share toward implementation of TIA-identified mitigation improvements. Some immediate frontage improvements will be required and will contribute to roadway safety. **As noted above, additional traffic-related input should be received at the BOC hearing to help determine the sufficiency of transportation-related facilities and services, and whether MCC 17.123.060(C) can be satisfied.**
49. *Other lands.* Airport-related uses are allowed only in the P zone. Under MCC 17.171.010, the P zone is intended to be applied to individual parcels only for certain uses, and if that

use is not established or ceases to exist, the property is to be taken out of P zoning. This significantly reduces available comparison land because P zoned property is likely to be already developed or partially developed. Some partially developed P zoned land or land already planned for development is available at the Aurora Airport, but not in a large chunk. If the BOC finds the development, as proposed, is appropriate, no other existing P zoned site would accommodate the use, and MCC 17.123.060(D) would be satisfied.

50. *More intensive uses.* P is the only zone allowed in the Public and Semi-Public zone designation. MCC 17.123.060(E) does not apply.

CONDITIONAL USE

51. Under MCC 17.119.020, a conditional use application may only be filed by certain people, including the owner of the property subject to the application. The case file contains a statutory warranty deed recorded in Marion County deed records at reel 3708, page 318 showing the subject property was conveyed to TLM Holdings, LLC. TLM Holdings could file this application. MCC 17.119.020 is satisfied.
52. Under MCC 17.119.025, a conditional use application shall include signatures of certain people, including the owner of the property subject to the application. The case file contains a statutory warranty deed recorded in Marion County deed records at reel 3708, page 318 showing the subject property was conveyed to TLM Holdings, LLC. The applications were signed by Ted L. Millar as president of TLM Holdings. MCC 17.119.025 is satisfied.
53. Under MCC 17.119.070, before granting a conditional use, the director, planning commission, or hearings officer shall determine:
 - A. That it has the power to grant the conditional use;
 - B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;
 - C. That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.
54. *Power to grant.* Under MCC 17.119.030, the hearings officer, or BOC on its own motion, may hear and decide only those applications for conditional uses listed in MCC title 17. MCC 17.171.030(A) lists airport-related commercial and industrial uses, as a conditional use in the P zone. The BOC is not calling up the conditional use application, but it is part of a package of applications that includes a comprehensive plan amendment that can only be decided by the BOC. Rather than bifurcate the process, it is Marion County practice to have all applications together before the BOC for initial decision. The BOC may hear and decide this matter. MCC 17.119.070(A) is met.

55. *Purpose and intent.* Under MCC 17.171.010, the purpose and intent of the P zone is to provide regulations governing the development of lands appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. It is intended that this zone be applied to individual parcels shown to be an appropriate location for a certain public or semi-public use. If the use existing at the time the P zone is applied is discontinued or if a proposed use is not established, it is the intent that the land be rezoned to conform to surrounding zoning or be devoted to permitted uses. It is not intended that a property zoned public for one type of use be allowed to change without demonstrating that the proposed conditional use will be compatible with adjacent uses and the property is better suited to the proposed use than alternative locations.

Applicant submitted this list of airport-related uses covered by their conditional use request:

Aerospace Research/Development, and flight testing
Airframe & Powerplant Equipment, sales and service
Aircraft accessories mfg. sales & service
Air-Data development, research & marketing
Aero publications
Aero Graphics mfg., sales & service
Aero cartography, development, sales, subscriptions
Aero sock mfg.
Aircraft fabrication, repair & maintenance
Auxiliary power unit mfg., repair & service
Aero engines, sales, mfg., repairs & maintenance
Aircraft repair & maintenance, and manufacturing
Rotorcraft repair & maintenance, and manufacture
Glider repair & maintenance and manufacture
Aircraft air conditioning mfg., repair & maintenance
Aircraft avionics sales & service
Aircraft conversions and modifications
Aero exhaust systems
Aircraft sales
Aircraft fuel cells, mfg., repair, replacement
Aircraft fuel injection and fuel delivery services
Aircraft propeller services, mfg., repair, maintenance
Aircraft parts, sales & service
Aircraft fluids & filters, sales and service
Aero electronics
Aero schools, training & colleges
Aero flight simulators
Aircraft repair stations
Aviation seminar facilities
Aerodynamic research
Aircraft plastics
Aero tire mfg., sales, service
Aero associations

Aero float mfg., sales, repair
Aircraft supplies
Aircraft kit mfg., sales & service, and research
Aircraft radio mfg., sales & service
Air systems mfg., sales, repair, installation
Emergency Locator Transmitter (ELT) mfg., sales, repair & installation
Air charter operations
Air Medevac & EMT Services
Airshow planning, development, & operations
Aircraft hangars
Aircraft fixed based operations
Aviation-related hotel specifically serving airport flights
Aircraft tug mfg., sales & service
Aircraft interiors, mfg., sales & service
Pilot supplies
Aviation-related office functions
Airport-related administration
Aero industry management & consulting services
Aero fasteners sales & supply
Air photography sales & development
Aero mapping systems
Pilot crew quarters with sleeping rooms
Aviation-related biomedical equipment design, repair, and installation
Ambulance storage, repair, and use for flight operations
Storage of aero-medical supplies including oxygen, medicines, preemie-incubators, and other ICU type equipment
Aero-medical flight-nurse classes and training in simulators and actual aircraft
Fire stations at airports
Unmanned-aerial systems
Drones
Aviation-related economic development planning
Aviation facility design and construction
Airport master planning
Automatic Dependent Surveillance-Broadcast (ADS-B) facilities and equipment
Aviation forest fire-fighting facilities
Law enforcement aviation facilities
Aviation-related emergency response stations and training facilities

Compatibility with adjacent uses is discussed in several places above. As noted, some uses, such as aviation-related offices, seem self-explanatory and not particularly incompatible. Other uses are not as familiar and potential impacts are unknown. The hearings officer finds insufficient information in the record to allow blanket approval of the list of uses. Proof of the nature and potential impacts of these uses needs to be submitted because, as MCC 17.119.010 acknowledges, a conditional use is an activity that is basically similar to other uses permitted in the zone, but due to some characteristics is not entirely compatible with the zone, and could not be permitted in the zone without review. Individual review of

proposed conditional uses will ensure consonance with the purpose and intent of the zone. The hearings officer recommends each use be specifically addressed by individual conditional use applications as the property develops. The hearings officer also recommends memorializing the list of conditional uses by application of a limited use overlay zone in conjunction with the zone change application. Without individualized compatibility consideration of proposed uses, the hearings officer finds the purpose and intent of the P zone is not proven, and MCC 17.119.070(B) is not met.

56. *Conditions.* Conditions have been suggested by the planning director, hearings officer and others, but some issues have yet to be resolved. If approved, any condition imposed must be necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. With such conditions, MCC 17.119.070(C) may be met.

LIMITED USE OVERLAY

57. Under MCC 17.176.010, the purpose of the limited use overlay zone is to reduce the list of permitted or conditional uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing, because the uses are considered generally acceptable, although type and intensity of activity may vary. Zones also include conditional uses which may be permitted if certain criteria are met. However, on a particular property certain of these uses may conflict with adjacent land uses or may not be considered suitable for a particular site. Rather than deny a zone change because the proposed zone would allow an objectionable permitted or conditional use, the limited use overlay can be used to identify the appropriate uses and either require a conditional use permit for other uses normally permitted in the zone or delete objectionable permitted or conditional uses from the zone.

The limited use overlay zone may also be applied to comply with use limitations for a Goal exception required by OAR 660-004. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.

Under MCC 17.176.020, when the limited use overlay zone is applied, the uses identified in the underlying zone shall be limited to those permitted or conditional uses specifically referenced in the ordinance adopting the limited use overlay zone. Until the overlay zone has been removed or amended the only uses permitted on the property shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted, or permitted subject to a conditional use permit, may only be allowed if the list of permitted or conditional uses in the limited use overlay zone is amended or the limited use overlay zone is removed from the property.

58. Under MCC 17.176.030, the limited use overlay zone is applied at the time the underlying zone is being changed. It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied. The ordinance adopting the overlay zone shall include findings showing that:

(A) no zone has a list of permitted and conditional uses where all uses would be appropriate;

(B) the proposed zone is the best suited to accommodate the desired uses;

(C) it is necessary to limit the permitted or conditional uses in the proposed zone; and

(D) the maximum number of acceptable uses in the zone have been retained as permitted or conditional uses. The ordinance adopting the overlay zone shall by section reference, or by name, identify those permitted uses in the zone that become conditional uses and those permitted or conditional uses that are deleted from the underlying zone. A use description may be segmented to delete or require a conditional use for any aspect of a use that may not be compatible.

Under this comprehensive plan and zone change application, the property would be zoned P; the only zone allowed under the Public and Semi-Public designation. The P zone is the only Marion County zone that allows airport-related uses. The term, airport-related uses, is not defined in the MCC, so applicant provided a list of proposed conditional uses. These uses should be memorialized as the only conditionally permitted uses in the zone via limited use zone. MCC 17.176.030 criteria for a limited use overlay zone are met.

59. Under MCC 17.176.040, the official zoning map shall be amended to show an LU suffix where the limited use overlay zone has been applied. This can be made a condition of any approval.

PUBLIC ZONE

60. MCC 17.171.060 contains P zone property development standards:

- (A) *HEIGHT. No building or structure in a P zone shall exceed 6 stories or 70 feet, provided that buildings or structures shall set back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.*
- (B) *FRONT YARD. Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.*
- (C) *SIDE YARDS. Where the side of a lot in a P zone abuts upon the side of a lot in any "R" zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.*
- (D) *REAR YARD. In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.*
- (E) *LOT AREA AND COVERAGE. The minimum requirements in P zones for dwellings shall be 1 acre except 6,000 square feet inside an unincorporated community*

boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30% of the lot area.

(F) OPEN STORAGE.

(1) All yard areas, exclusive of those required to be landscaped as provided in Section 171.060 (G), may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.

(2) The surface of open storage areas, including automobile and truck parking area shall be paved or graveled and maintained at all times in a dust-free condition.

(G) LANDSCAPING. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use, additional landscaping may be required if necessary to make the use compatible with the area.

(H) PERFORMANCE STANDARDS. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.

(I) SEWAGE DISPOSAL. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.

(J) TRAFFIC ANALYSIS. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.

Standards (A) through (H) should be made conditions of approval to be applied at time of development. The standards in MCC 17.171.060 (I) and (J) could be conditions of approval applied at time of development but they are intertwined with issues set forth above. For (I), applicant has shown wastewater can more likely than not be achieved for the development, but the goal 11 evaluation above questions whether an exception may be required to implement applicant's favored proposal. If the goal 11 issue is clarified/resolved, (I) can be made a condition of approval. For (J), there are still some transportation issues to be resolved. If transportation-related issues are clarified/resolved, (J) can also be made a condition of approval. **Standards in (I) and (J) need to be further addressed.**

AIRPORT OVERLAY ZONE

61. The subject property is within the airport overlay (AO) zone of the Aurora State Airport. MCC chapter 177 governs the Marion County AO zone. Under MCC 17.177.030(A), the Airport Development District consists of those lands, waters and airspace area at or below

the primary, transitional and approach surfaces. The subject property is within the transitional surface.

1. Use Limitations. Any use, accessory use, buildings and structures otherwise allowed in the underlying zone shall be permitted provided the following requirements are satisfied:
 - a. No obstruction or object shall be permitted if it extends above the transitional and approach surfaces as defined in MCC 17.177.020(C).
 - b. Roadways, parking areas and storage yards shall be located in such a manner that vehicle lights will not result in glare in the eyes of the pilots, or in any other way impair visibility in the vicinity of the runway approach.
 - c. Sanitary landfills, sewage lagoons or sewage sludge disposal shall not be permitted closer than 10,000 feet to the airport runway.
 - d. No game preserve or game reservation shall be permitted if the animals or birds have the potential to become a hazard to air navigation.
 - e. No structure or use intended for public assembly shall be allowed except by a conditional use permit.

MCC 17.177.030(A)(1)(a) and (b) can be made conditions of any approval. No sanitary landfills, sewage lagoons, sludge disposal, game preserves, or game reservations are proposed or permitted under these applications. Public Assembly is not defined in the MCC, but OAR 660-013-0020(5) defines public assembly uses for airport purposes as:

[A] structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, worship, shopping, business, entertainment, amusement, sporting events, or similar activities, excluding air shows. Public Assembly Uses does not include places where people congregate for short periods of time such as parking lots and bus stops or uses approved by the FAA in an adopted airport master plan.

No public assembly uses are proposed or permitted under these applications.

MCC 17.177.030(A) can be satisfied.

VI. Recommendation

If applicant provides additional information to sufficiently address all applicable requirements, the hearings officer recommends the BOC TAKE exceptions to statewide planning goal 3, Agricultural Lands, and 14, Urbanization, and APPROVE the comprehensive plan amendment and zone change.


The hearings officer recommends the BOC APPLY a limited use overlay to set forth uses conditionally permitted on the subject property, but DENY blanket conditional use approval for those uses under this proposal.

Conditions should be addressed at hearing and applied as necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.

VII. Referral

This document is a recommendation to the Marion County Board of Commissioners. The Board will make the final determination on this application after holding a public hearing. The Planning Division will notify all parties of the hearing date.

DATED at Salem, Oregon, this 19th day of November 2019.



Ann M. Gasser
Marion County Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing order on the following persons:

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by mailing to them copies thereof. I further certify that said copies were placed in sealed envelopes, addressed as noted above, and deposited in the United States mail at Salem, Oregon, on the 19th day of November 2019, and that the postage thereon was prepaid.



Susan Hogg
Secretary to Hearings Officer