

BEFORE THE MARION COUNTY HEARINGS OFFICER

In the Matter of the Application of:) Case No. CU/CPA 24-038
) **CONDITIONAL USE /**
TLM HOLDINGS, LLC) **COMPREHENSIVE PLAN AMENDMENT**

RECOMMENDATION

I. Nature of the Application

This matter comes before the Marion County Hearings Officer on the application of TLM Holdings, LLC for a conditional use to expand an existing airport to allow a vertical takeoff and landing facility for aircraft and a comprehensive plan amendment to amend the airport plan on a 16.54 acre parcel in an EFU (Exclusive Farm Use) zone located at 22515 Airport Rd. NE, Aurora.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Marion County Code, including MCC 17.119 (Conditional Use), CCC 17.136 (EFU Zone), MCC 17.177 (Airport Overlay Zone), the Marion County Comprehensive Plan Goals and Policies, Statewide Planning Goals, Oregon Revised Statutes Chapters 215 and 836, and Oregon Administrative Rules, including OAR 660-012 (Transportation Rule), and OAR 660-013 (Airport Planning Rule).

III. Public Hearing

A public hearing was held on this matter on March 6, 2025. The Planning Division file was made part of the record. The following persons appeared and provided testimony on the application:

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| 1. | John Speckman | Marion County Planning Division |
| 2. | Wendie Kellington | Applicant's Attorney |
| 3. | Ted Millar | Applicant Representative |
| 4. | Aron Faegre | Proponent of Application |
| 5. | Tony Helbling | Proponent of Application |
| 6. | Kevin Ferrasci O'Malley | Proponent of Application |
| 7. | Betsy Johnson | Proponent of Application |
| 8. | Mercedes Rhoden-Feeley | Individual Capacity / Opponent |
| 9. | Mercedes Rhoden-Feeley | Representative Capacity for Aurora / Opponent |
| 10. | Nancy Snyder | Opponent of Application |
| 11. | James Snyder | Opponent of Application |

No objections were raised as to notice, jurisdiction, or conflict of interest, or to evidence or testimony presented at the hearing. The following documents were presented, marked and entered into the record as exhibits:

Exhibits 1-6 were submitted by Wendie Kellington on behalf of Applicant and include:

- Exhibit 1: Correspondence from Irl M. Davis, PhD addressing opponents' concerns.
- Exhibit 2: Correspondence from Aron Faegre, Airport Planning and Design, addressing buildings for support services and indicating there will be no stand-alone offices and including test results for potable water quality.
- Exhibit 3: Correspondence from DKS Associates regarding 2024 TIS findings, traffic planning rule and addressing opponents concerns.
- Exhibit 4: Article regarding Orlando International Airport eVTOL vertiport development plans and vertiport development benefit.
- Exhibit 5: Correspondence in support of the application from Jason Montecucco, an owner of Montecucco Farms, LLC, which operates a farm along airport property on drone usage and details minimal farm impact.
- Exhibit 6: Master Plan Map of Airport Expansion proposal

Additional exhibits were presented during the hearing from multiple individuals and were marked alphabetically:

- Exhibit A: Parking analysis and summary from Aron Faegre
- Exhibit B: Letter of support for application from Wilsonville Area Chamber of Commerce
- Exhibit C: Letter in opposition from Mercedes Rhoden-Feely regarding failure to seek Goal exceptions and noncompliance with statewide planning goals
- Exhibit D: Correspondence from Nancy Snyder addressing objection to proposal, specifically noise and safety concerns, and with photographs illustrating proximity of helicopters and decibel counter.

An open record period was requested. The original open record period was permitted with the record open to all parties for seven days, seven additional days to allow responses to new evidence, and an additional seven days for the applicant to submit final written arguments.

On March 17, 2025, the open record periods were extended by one week to accommodate the large submission that was received from the City of Aurora on March 11, 2025. Based upon the size of the submission (approximately 4,800 pages), on March 19, 2025, the open record periods were extended by one week.

First Open Record Period:

- March 11, 2025: City of Aurora Submission (4,836 pages including substantive analysis from City of Aurora, Development alternatives from other aviation facilities, Public Utility Commission of Oregon Order)
- March 14, 2025: Friends of Marion County statement in opposition
- March 19, 2025: Applicant's Supplement to Exhibit 6
- March 20, 2025: Submission from Bruce Bennett in support of the application
- March 24, 2025: Statement in support from Philip Mandel
- March 26, 2025: Annual Board of Directors Meeting for HDSE Association Members (January 15, 2025)
- March 27, 2025: Submission from Association for Uncrewed Vehicle Systems International in support of the application.

March 27, 2025: Written submission and videos/photographs from Nancy Snyder detailing low flying aircraft and noise concerns

Second Open Record Period:

March 28, 2025: October 2000 Master Plan Update prepared for Oregon Department of Aviation for the Aurora State Airport, including Chapters 1 through 7

April 10, 2025: Documents submitted by Wendie Kellington on behalf of Applicant with Exhibits, including Response letter from HDS President Lukas Nickerson; Response letter from Fournier (HTS Chief Pilot and Director of Flight Operations), Response letter from Tony Helbling, Response Letter from Oregon Department of Aviation Director Kenji Sugahara, Response Letter from Life Flight CEO Ben Clayton, and HTS Land Use Approval

On April 19, 2025, pursuant to the request of Applicant and based upon the complexity of the issues in the exceedingly large record, Applicant's time to submit its final written argument was extended until May 1, 2025.

Final Open Record Period:

May 1, 2025: Applicant's Final Submission

IV. Executive Summary

Applicant TLM Holdings, LLC proposes to expand the airport boundary for the Aurora State Airport to include the subject property and to allow airport uses (as identified in ORS 835.616(2) and OAR 660-013-0100) to be developed with the expanded airport boundary. The site plan illustrates the proposal's layout of airport uses, facilities and services directed at electric-powered aircraft both electric vertical take-off and landing aircraft ("eVTOL"), electric powered fixed-wing aircraft, as well as traditional helicopters and fixed-wing aircraft. The proposal does not seek to change the plan designation or zoning for the property.

The consolidated application includes a conditional use permit for the airport boundary expansion and airport uses, a comprehensive plan amendment to amend the airport boundary map for the Aurora State Airport, and to otherwise comply with the requirements of the Airport Planning Rule. Applicant states that it is not required to take an exception to Goals 3, 4, 11, or 14, essentially because the proposed expansion does not permit service to a larger class of airplane but rather will accommodate aircraft that already use the airport. The proposal, however, must demonstrate compliance with the farm impacts test (ORS 215.296). Applicant must otherwise comply with the aviation facility planning requirements set forth in OAR 660-013-0040.

Applicant provided background information regarding the subject property. The subject property has been used as a retreat facility for more than 40 years. However, ever since the adoption of the Aurora State Airport Master Plan in 1976 which includes the 1976 Airport Layout Plan as part of the acknowledged Marion County Comprehensive Plan, the subject property has been designated for development with aviation uses. Following closure of the retreat facility, Application sought to put the subject property into productive aeronautical use consistent with the designation for it adopted in the 1976 Aurora State Airport Master Plan.

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The 1976 Aurora State Airport Master Plan, including its airport layout plan, which is a map of the airport, is part of the Marion County Comprehensive Plan. The Airport Master Plan was coordinated with the City of Aurora, City of Wilsonville, and with Marion County. The 1976 Aurora State Airport Master Plan, including its airport layout plan, designates the subject property as suitable for airport related development under private ownership.

Applicant seeks approval by the County and completion of the required Oregon Department of Aviation (ODAV) processes to operate as a “through-the fence” (“TTF”) operation at the Aurora State Airport. ODAV supports the proposal. The TTF operation would allow the business located on private property adjacent to the Aurora State Airport access to the airport’s facilities without being physically located on airport property.

The Application, including its 63 exhibits, and the evidence entered into the record demonstrates that the proposal satisfies all applicable state and local land use regulations necessary for approving an expansion of the Aurora State Airport and to authorize airport uses within the expanded airport boundary. As detailed below, the Hearings Officer finds that Applicant has met the burden of establishing compliance with the applicable standards and criteria for a conditional use and comprehensive plan amendment to amend the airport plan at 22515 Airport Rd. NE, Aurora.

Therefore, the hearings officer recommends the Marion County Board of Commissioners **GRANT** the conditional use and comprehensive plan amendment applications, subject to the conditions of approval necessary for the public health, safety, and welfare.

V. 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 property is 16.54 acres in size and is designated Primary Agriculture in the Marion County Comprehensive Plan, and correspondingly zoned Exclusive Farm Use (EFU). The property consists of tax lots 800 & 900 of Section 2D of Township 4 South, Range 1 West.
2. The subject property is on the west side of Airport Rd NE. The property is vacant and, in neither farm, nor forest use. There are no rivers, streams, wetlands, floodplains or other natural hazards on the parcel or within the immediate vicinity. The property is entirely within the Airport Overlay (AO) Zone. Special Exception 77-37 (SE77-37) approved the property’s current configuration and therefore the property is considered a legal parcel for land use purposes.
3. The subject property is roughly level and is presently undeveloped. Structures from the previous use have been removed. An internal roadway for the former use was graveled and partially remains. The subject property has metered electricity and is connected to a gas main from when the property was used as a church camp and then a retreat.
4. The subject parcel is bordered to the north, west and south by parcels in the Public (P) zone that are part of the Aurora Airport. To the east, on the other side of Airport Rd NE, are EFU zoned lands in primarily agricultural use that stretch to woodlands adjacent to the Pudding River which is the county line between Marion and Clackamas counties. The properties to the south and west are part of the Southend Corporate Airpark and include a number of hangars, offices,

maintenance, repair, engineering and design facilities for various aviation related businesses and several Fixed Base Operators (“FBO”). One of those operators is Life Flight Networks.

The property to the south of the subject property is the site of HTS, which charts heavy lift and fire suppression helicopters and has repair and training facilities on-site. Like Columbia Helicopters, HTS is not within the Aurora State Airport boundary and does not have through-the-fence (TTF) access to the Aurora State Airport.

5. The subject property is within the Horizontal Surface District of the Aurora State Airport and is subject to the AO zone’s use and development restrictions. The subject property has a taxi lane easement to the Aurora Airport’s runway and rights to access the runway over a strip of property that TLM sold to ODAV several years ago. The Airport also holds a Flight Strip Easement over portions of the subject property, which grants the United States and the State of Oregon use of the easement area for aircraft use and further provides the United States and the State of Oregon the right to limit, control, and remove obstructions extending into the space above the subject property. The southwest corner of the subject property touches upon an airport access way that allows for through-the-fence (TTF) operations as envisioned by Aurora State Airport master planning, including the 1976 master plan that is an acknowledged part of the County’s Comprehensive Plan
6. Applicant’s proposal is for a conditional use permit to expand the Aurora Airport boundary to include the subject parcel, and to approve the airport uses identified in Oregon Revised Statute (ORS) 836.616(2) and Oregon Administrative Rule (OAR) 660-013-0100 and related development on the subject property. The application also includes a proposed comprehensive plan change to amend the Aurora Airport boundary map in Marion County Comprehensive Plan to include the subject property, concurrent with the expansion.

The proposal does not involve service to a larger class of airplanes than already served by the Aurora Airport. Therefore, no goal exception is required for the proposal as per OAR 660-012-0065 *Transportation Improvements on Rural Lands* section (3) “*The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule*”, subsection (n) “*Expansions or alterations of public use airports that do not permit service to a larger class of airplanes*”.

Airport uses are allowed as a conditional use in the EFU zone as an “other transportation facilit[y]” in MCC 17.136.050(J)(4), “*Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.*”

Applicant states that MCC 17.136.050(J)(4) implements ORS 215.283(3), “*Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:*

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.”

Applicant is required to meet the farm impacts test of ORS 215.296, which is implemented in MCC 17.136.060(A)(1), to for approval to expand Aurora Airport to include, and develop airport uses on, the subject property.

ORS 836.625(1) states, *“The limitations on uses made of land in exclusive farm use zones described in ORS 215.213 and 215.283 do not apply to the provisions of ORS 836.600 to 836.630 regarding airport uses.”* The proposed uses on the subject parcel are included in ORS 836.616(2) and OAR 660-013-100 as uses that shall be authorized within airport boundaries.

Expansions of airport boundaries are guided by OAR 660-013. The application is not subject to the Transportation Planning Rules in OAR 660-012 as per OAR 660-013-160(3), *“Compliance with the requirements of this division shall be deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR 660, division 12 related Airport Planning.”*

The Application addresses MCC 17.119.070 *Conditional Use*, MCC 17.136.060(A) *Conditional use criteria in EFU*, MCC 17.177 *Airport Overlay Zone*, applicable policies in the Marion County Comprehensive Plan, Oregon Statewide Planning Goals, and applicable Oregon Administrative rules in 660-13.

7. The Planning Division requested comments from various governmental agencies. The comments received from the various agencies are summarized below:

Marion County Land Development, Engineering, and Permits requested that the following be included:

ENGINEERING CONDITIONS

Condition A – Prior to building permit issuance, design rural type frontage improvements along the Airport Road subject property frontage that are anticipated to include a new access, removing prior existing accesses, vegetation clearing, 5-foot gravel road shoulder, proper foreslope and drainage ditch relocation, and obtain a Major Construction Permit for same. Prior to issuance of a Building Department Certificate of Occupancy, acquire final inspection approval of the public roadway related improvements.

Condition B – Prior to building permit issuance, contribute a proportional share in the amount of \$24,000 as presented in the February 2024 TIS Update toward the cost of planning, designing, and constructing signalization and turn lane improvements at the intersection of Ehlen Road and Airport Road as identified in the County RSTP and in the City of Aurora TSP, as a traffic mitigation measure.

ENGINEERING REQUIREMENTS

C. A maximum of one (1) direct driveway access point to Airport Road, not including Stenbock Lane, will be allowed. Access locations must meet the Major Collector minimum centerline spacing standard of 300 feet.

D. Storm water detention will be required; however, water quality treatment is not and therefore optional. 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 prior to issuance of a building Certificate of Occupancy.

E. Transportation System Development Charges (TSDCs) will be assessed upon application for building permits.

F. Evidence of a recorded Road Maintenance Agreement regarding Stenbock Lane, from which access is shown to be taken, is required prior to issuance of building permits.

ENGINEERING ADVISORIES

G. DEQ regulates ground disturbing activities of > 1 acre for construction stormwater erosion.

H. Airport Road is functionally classified a Major Collector and as such has a Special Setback of 40 feet from which building setbacks are to be measured.

Marion County Building Inspection commented: Permit(s) are required to be obtained prior to development and/or utilities installation on private property.

Oregon Department of Aviation (ODAV) reviewed the proposal and prepared the following comments:

- (1) Prior to the construction or establishment of the proposed vertical takeoff and landing facility, the applicant must submit an application for approval of the airport site to ODAV, as described in Oregon Revised Statutes (ORS) 836.090.
- (2) Prior to the construction or establishment of the proposed facility, the application fee must be paid to ODAV, as described in ORS 836.085.
- (3) The proposed development must adhere to the approval criteria for the establishment of an airport as described in ORS 836.095 and OAR 738-020 (Minimum Standards for Airports).
- (4) In accordance with FAR Part 77.9 and OAR 738-070-0060, the proposed development is required to undergo aeronautical evaluations by the FAA and ODAV. The aeronautical evaluations are initiated by the applicant providing separate notices to both the FAA and ODAV to determine if the proposal poses an obstruction to aviation safety. The applicant should receive the resulting aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.
- (5) The height of any new structures, trees, and other planted vegetation shall not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV.
- (6) Any proposed external lights shall be designed so as not to interfere with aircraft or airport operations.

Additionally, the applicant is advised to review the FAA's webpage which outlines procedures for establishing private-use airports: <https://www.faa.gov/faq/what-procedures-must-i-follow-build-private-use-airport>. This includes the submittal of FAA Form 7480-1.

All other agencies either had no comment or did not respond.

8. In addition to the Application, submissions in support of and in opposition to the Application were received, and included in the record.
9. Friends of Marion County submitted a statement in opposition to the application. Friends of Marion County opposes the application based on safety and security concerns with respect to the use and development of eVTOLS. Friends of Marion County argue that the application seeks an urban use not related to agriculture and is not in harmony with the purpose of the EFU zone, and that there are other available sites that can more reasonably accommodate the proposed use. Friends of Marion County notes a conflict with the use and the ongoing use of agricultural drones in the area.
10. Joseph Schaefer objects to the application on the basis that the proposal is neither a public use airport nor an expansion of the Aurora State Airport boundary so OAR 660-12-0065(3)(n) does not apply and that the proposal violates ORS 215.283(3)(b). Mr. Schaefer also argues that the proposal is not consistent with Goals 3, 11, and 14 without an exception.
11. Friends of French Prairie opposes the application on the basis that the proposal is a private development on private land adjacent to the Aurora State Airport and is neither a public use airport nor an expansion of the Aurora State Airport. Friends of French Prairie argue that the proposal is for a transportation facility which is not consistent with Goals 3, 4, 11, and 14, and cannot be approved of rural lands without an exception.
12. Irl M. Davis, PhD, submitted a response to the objections brought by Friends of Marion County, Joseph Schaefer, and Friends of French Prairie. Dr. Davis states that the introduction of new rotorcraft pads will have no impact on current use of agricultural zones. Dr. Davis also responds to allegations of safety and security concerns noting that commercial eVTOLs are not ultralights and any use is subject to oversight through FAA regulations.
13. Michael Weimer, Chief Operating Officer for Lifeflight Network submitted a statement in support of the proposal. Mr. Weimer encourages approval of the application because the proposed facility will strengthen Life Flight's operational capacity to meet service demands. Mr. Weimer notes that Life Flight Network has outgrown its existing space and is actively evaluating relocation options.
14. The Aurora Airport Improvement Association submitted a statement in support of the proposal. President Tony Helbling states that the site presents a unique opportunity to allow an industry "cluster" of companies operating vertical lift aircraft. Currently, Life Flight, Columbia Helicopters, Winco Powerline Services, Wilson Construction Company, Helicopter Transport Services, Portland General Electric, and Teledyne/FLIR operate vertical lift aircraft at the location, and the proposal would support the Oregon Business Plan in promoting the concentration of these similar firms will bring development and jobs to a "long-time unproductive property."
15. The City of Aurora submitted comments in opposition to the airport boundary expansion. The City of Aurora objects to an extension of the two-year limitation in MCC 17.119.190 in general, asserts that an exception to Goal 12 is required, and that the proposal conflicts with ORS 215.283(3)(a).

16. The City of Wilsonville objects to the application. The City of Wilsonville does not support conversion of EFU land to non-agricultural uses in the French Prairie area of the Willamette Valley, and particularly to intensification of airport uses based upon existing environmental and infrastructure issues which could negatively impact the City of Wilsonville. The City of Wilsonville has a particular concern about the downstream impacts of stormwater discharge from the proposed facility.
17. Testimony was received at the public hearing held on March 6, 2025.
18. Wendie Kellington (Kellington Law Group), attorney for Applicant addressed the complex application, and discussed the exhibits presented with the application.
19. Ted Millar, principal of TLM Holdings, LLC, testified in favor of the application. Mr. Millar testified that the property was purchased from “Beyond the Reef” church camp with the understanding that it was intended as airport property. Mr. Millar noted that the property was never on tax rolls, but if approved, will contribute approximately \$350,000.00 in tax revenue.
20. Aron Faegre testified in favor of the application. Mr. Faegre is an architect and civil engineer who worked on airport development. Mr. Faegre testified about the noise study and indicated that the new eVTOL aircraft is significantly less noisy than helicopters. Mr. Faegre stated that the noise impacts from this use are already captured and are lesser than existing noises.
21. Tony Helbling, an air ambulance and helicopter pilot, testified in favor of the application. Mr. Helbling testified that the proposal creates a place to allow more use for helicopters in medical transportation and construction. Mr. Helbling testified about the “clusters” of similar use companies that use helicopters and are centered at the Aurora Airport. The “cluster” of companies, including direct competitors, benefit by their proximity to services and workforce. Mr. Helbling noted that the industry “clusters” also reduce impact to surrounding areas.
22. Kevin Ferrasci O’Malley, CEO of the Wilsonville Chamber of Commerce, testified in favor of the application. Mr. Ferrasci O’Malley will have a significant economic impact on the area in revenue and jobs. The proposal, if approved, will capitalize on emerging technology, and will be a strategic investment in the County’s growth.
23. Betsy Johnson testified at the hearing in favor of the application. Ms. Johnson has worked with the Department of Aviation, is a commercial helicopter pilot, and is on the Board of the Life Flight Network. Ms. Johnson encourages approval and supports the development of the next stage of aeronautical development and air operations in Marion County. Ms. Johnson noted the economic development and the benefit of “through the fence” legislation.
24. Mercedes Rhoden-Feely testified in opposition to the application in her individual capacity with the submission of Exhibit C, and in her representative capacity with the City of Aurora.
25. Nancy Snyder testified in opposition to the application. Ms. Snyder owns a house and farm across the street from the Aurora Airport. Ms. Snyder is a descendant of the Aurora Colony. Ms. Snyder testified that she objects to the application based upon environmental concerns, noise concerns, and impacts on surrounding farms and community. Ms. Snyder submitted Exhibit D, and addressed her concern regarding an incident in which fluids were dropped over her field from existing operations.

26. James Snyder testified in opposition to the application. Mr. Snyder, Nancy Snyder's brother, opposes the application because of the impact of the helicopter operations on his life and farm on his property that is across from the subject property. Mr. Snyder stated concerns about road maintenance and the noise from the increased helicopter presence.

VI. Additional Findings of Fact and Conclusions of Law

1. Applicant has the burden of proving all applicable standards and criteria are met.

CONDITIONAL USE STANDARDS

2. MCC Chapter 17.136 EFU (Exclusive Farm Use) zone allows conditional uses in the EFU zone. MCC 17.136.050(J) allows certain transportation uses, to include:

(4) [O]ther transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

This standard implements ORS 215.283(3), quoted above, and must be interpreted consistently with the statute. *Wetherell v. Douglas County*, 209 Or App 1 (2006). The standard allows transportation facilities and transportation improvements not otherwise allowed under the code (or statute) to be approved if certain requirements are met. Here, the expansion of an airport boundary (an airport is a transportation facility) is a transportation facility and/or improvement not otherwise allowed under the code.

The standard provides that an "other transportation facility or improvement" is subject to OAR Chapter 660, Division 12 and, if necessary, an exception to applicable goals. Here OAR 660-012-0065(3)(n) allows:

"(n) Expansions or alterations of public use airports that do not permit service to a larger class of airplane[.]"

The proposal does not permit service to a larger class of airplane as that phrase has been defined by the Court of Appeals. See Application Exhibit 4 (*Schaefer v. Oregon Aviation Board*, 312 Or App at 345 (discussing what is meant by different class of airplane)). All the rotorcraft and fixed-wing aircraft that would use the proposed facility are permitted service at the airport – the proposed facility does not permit the airport to service to any different aircraft than are otherwise permitted at the airport. The taxiway access to the property is limited to 82 feet in width due to existing structures, which precludes larger aircraft than those already permitted at the airport to access the subject property – the largest fixed-wing aircraft that could utilize the subject property's taxi lane access to the taxiway and runway under the proposal would be those with wingspans no larger than 75 feet which generally describe Class B-II aircraft. Last, nothing about the proposal requires the airport to implement any design standards to permit a larger class of airplane to use the Airport.

Therefore, the expansion is deemed to be consistent with Goals 3, 4, 11 and 14 and exceptions to Statewide Goals 3, 11 and 14 are not required. This finding is addressed further below.

ORS 836.625(1) provides that the limitations on uses in EFU zones described in ORS 215.283 do not apply regarding airport uses within airport boundaries. Consequently, the airport uses described in ORS 836.616(2) are allowed conditional uses within an airport boundary in the EFU zone.

The proposed expansion of the airport boundary and proposed airport uses are permitted conditional uses under MCC 17.136.0050.

3. 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 application has been filed by the property owner as allowed. The application was filed by appropriate persons. MCC 17.119.020 is satisfied.
4. Under MCC 17.119.025, a conditional use application shall include signatures of certain people, including all owners of the subject property. The application for conditional use has been signed by the owner of the subject property. MCC 17.119.025 is satisfied.
5. Under MCC 17.119.060, the hearings officer may prescribe restrictions or limitations for the proposed conditional use but may not reduce any requirement or standard specified by this title as a condition of the use. The hearings officer shall impose conditions only after it has been determined that such conditions are necessary for the public health, safety or general welfare. Conditions of approval that relate to approval criteria and ensure the proposal complies with the mandatory approval criteria are appropriate. Applicant indicates that it does not oppose appropriate conditions of approval.
6. Under MCC 17.119.070, before granting a conditional use, the director, planning commission or hearings officer shall determine:

A. That is has the power to grant the conditional use;

MCC 17.110.680 grants the planning director the authority to handle all matters pertaining to conditional uses and other administrative matters as prescribed by the Marion County Code. However, this proposal is a consolidated request involving a comprehensive plan map amendment that the Marion County Code requires to be decided by the Board of Commissioners following a hearing before the Hearings Officer. The proposal is consistent with MCC 17.119.070(A).

B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;

MCC 17.136.010 provides the purpose for the EFU zone and provides in part “The purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. The policy statement includes that the EFU zone is intended to be a farm zone consistent with OAR 660, Division 033, and ORS 215.283. The proposed expansion of the airport boundary and permitted uses is authorized by and is therefore consistent with ORS 215.283(3)(a), which is implemented by MCC 17.136.050(J)(4).

According to MCC 17.136.010, the purpose of the EFU zone is to provide areas for continued practice of commercial agriculture. The purpose of the zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county.

As a conditional use in the EFU zone, MCC 17.136.050(J)(4) lists “Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject of OAR Chapter 660, Division 12.”

MCC 17.136.050(j)(4) implements ORS 215.283(3), which provides:

“Roads, highways and *other transportation facilities and improvements* not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.”
(Emphasis added)

This standard allows transportation facilities and transportations improvements not otherwise allowed under the code or statue to be approved if certain requirements are met. An expansion of an airport boundary and permitted airport uses are an “other transportation facilities and improvements” not otherwise allowed under the Statute or MCC.

The administrative rules referenced by the above code provision and statute are OAR 660-012-0065(3):

“The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:

“* * * *

“(n) Expansions or alterations of public use airports that do not permit service to a larger class of airplane[.]”

In order to determine that the proposed conditional use for airport expansion and airport uses is in harmony with the purpose and intent of the zone, the proposal will be evaluated with the specific criteria for a conditional use in the EFU zone and criteria for the AO zone.

The proposed expansion and alterations of the airport do not permit service to a larger class of airplane but rather will accommodate aircraft that use the airport. Nothing about the proposal requires the airport to implement any design standards to permit a larger class of planes to use the airport. As such, the proposal can be approved as a conditional use without taking an exception to Goals 3, 4, 11 and 14.

Opponents claim that the proposal is not the “expansion or alteration of a *public use airport*,” because the subject land is privately owned. The Court of Appeals determined that the subject property must be brought into the Aurora Airport public use boundary in order to utilize the “through the fence” statutes that apply to privately owned property adjacent to the airport, which statute specifically names the Aurora Airport as a place for development of significant private airport related uses. *Schaefer v. Marion County*, 318 Or App 617, at 620 (2022).

“Requests for comprehensive plan amendments and zone changes, like the ones at issue here, sought by private parties without corresponding expansion of the airport boundary through the airport planning process are not expansions of public use airports within the meaning of OAR 660-012-0065(3)(n).” (Emphasis added) *Id.*

Airport expert Aron Faegre explained that the Aurora Airport is a public use airport under the federal definition of the term. Mr. Faegre states that even on the land at the airport that ODAV owns, there are numerous private developments that while operated as private business, they are considered a part of the KUAO public use airport. (March 27, 2025 Submission, Exhibit 15). Mr. Faegre notes the unique Oregon public private partnership at public use airports in the “through the fence” statutes that the court of appeals described and addressed. He reinforces that those statutes (ORS 836.640-642) specifically govern by name the Aurora State Airport and its adjacent privately owned properties like the subject property. He points out that ORS 836.640 states that the “airport boundary” that OAR 660-12-0065(3)(n) permits to be expanded without goal exceptions, “includes the combined public and private properties that are permitted to have direct access to the airport runway by aircraft.”

A proposal to include “through the fence” areas within the boundary of the Aurora Airport is, as a matter of law, the expansion of that public use airport under OAR 660-012-0065(3)(n).

MCC 17.136.010 recognizes that a broad range of non-agricultural uses are allowed on agricultural land that are deemed to be consistent with Goal 3 and harmonious with zones that implement Goal 3. OAR 660.012-0065(3)(n). The proposal is consistent with the standard.

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.

This criterion can be met by ensuring 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.

Conditional Use Review Criteria

7. The criteria for a conditional use in the EFU zone are found in MCC 17.136.060(A):
 1. *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in*

exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.

This criterion implements the farm impacts test of ORS 215.296. Farms near the Aurora State Airport have operated for decades. The evidence does not support that significant changes in practices or increases in costs of farm operations with the proposal that are different from the existing airport and helicopter-based operations immediately adjacent to and in the vicinity of the subject property. The proposal does not differ significantly from those uses immediately north or south of the subject property in terms of potential impacts to the land to the east of Airport Road that are devoted to farm use.

The specific assertion in the record about farm conflicts is from Aurora Farms' objection that the proposed facility will foreclose or make it more difficult or expensive to use drones in farming missions, and the proposed facility's traffic will make it hard or unsafe for farm equipment to move around. Friends of French Prairie (FOFP) and Friends of Marion County (FOMC) make similar assertions, as does Nancy Snyder. Nothing submitted in opposition to the application demonstrates significant increases in the costs of accepted farming practices or causes a significant change in accepted farming practices.

Aurora Farms does not use drones in its farming operations because it will have to start getting ATC permission to use drones in agriculture if the proposal is approved. However, the evidence indicates that ATC permission is currently required for drone operation. (Applicant's March 6 Hearing Exhibit 1, p 6.). Any drone flight for agriculture applications or monitoring or any other use for that matter right now, regardless of the proposal, must get approval from ATC to fly because of the proximity to the Aurora Airport and the fact that the area around the airport is strictly controlled airspace. Dr. Davis states that "[a]ny drone operator – on a farm or otherwise – who is within controlled airspace is now required to get approval from the Air Traffic Control Tower before undertaking almost any drone mission. *** Drones are aircraft. The airspace around Aurora Airport to include over the property of the farmer who wrote the objection (Aurora Farms) is controlled airspace. ***" and also "**** The particular farmer's drone operations are already significantly constrained by the Aurora State Airport's controlled airspace. The proposal does not change the controls that apply to the farmer's potential drone use at all.****"

An area farmer, Jason Montecucco of Montecucco Farms), farms directly across Airport Road from Columbia Helicopter, as well as on other land around the airport. Mr. Montecucco submitted a letter of support for the record and stated that the airport has not presented any problems whatsoever for his farming operations and he supports the proposal. (Applicant's March 6, 2025 Hearing Exhibit 5) Mr. Montecucco explained that he in fact uses drones in his farm operations and that getting ATC permission to fly drones for his farm-related missions is seamless and fast. He also explained that he has never experienced any problems with slow moving farm equipment conflicting with traffic on airport road, does not expect to have any such issues under the proposal, and importantly "no activity at the airport has ever hindered our ability to farm." Moreover, the Applicant's TIA explains that at most, farm equipment moving on Airport Road will experience a 5-second delay and the proposal presents no traffic safety concerns.

This testimony from Dr. Davis, Jason Montecucco of Montecucco Farms and DKS (DKS re traffic) is credible and is more persuasive than that from Aurora Farms and FOFP and FOMC.

Ms. Snyder's objections, while understandable, are not reasonable concerning HTS', lawful aviation activity at the airport that occur as authorized in the national airspace system. HTS' letter in the record (Exhibit 2) states that HTS has never flown over Ms. Snyder's residence, which her family recently built next to one of Oregon's busiest airport. HTS' chief pilot explains that "there is ADS-B information (available as public record) showing our flight paths on every flight", and there is nothing that supports any of those flights are over the Snyder house. He explains that the water that Snyder has seen drip from helicopters is river water from practice missions over the Willamette River and that HTS does "endeavor to fly neighborly for all operations[they] conduct. Aircraft operations are typically more frequent at an airport, as to be expected. ***", he explains that HTS is committed to "being considerate to our neighbors within the confines of the flying we must absolutely do as a minimum to accomplish *** federally mandated life and property critical contractors. This flying is done at the Aurora Airport, within the parameters of our approved land use agreement and in compliance with the rules and regulations set forth by the [FAA]. ***." The other helicopter missions operate out of Aurora to include those associated with LifeFlight (whose headquarters are at Aurora) and Columbia Helicopters.

Because the proposal seeks to attract and support electric aircraft which are quieter, it is expected that the proposal will involve aircraft operations that will likely be less noisy than those experienced by Snyder's concerning HTS' operations. It cannot be said that the proposal either increases costs of farming or accepted farming practices because all the impacts referenced by the statements in opposition are presently occurring and have not been established to increase with approval.

Determining whether a use will force a significant change in, or significantly increase the cost of farm practices on surrounding lands devoted to farm use requires applying a three-part analysis set out in *Schellenberg v. Polk County*, 21 Or LUBA 425, 440 (1991). Under that test an applicant must (1) identify the accepted farm and forest practices occurring on surrounding farmland and forestland; (2) explain why the proposed use will not force a significant change in the identified accepted farm and forest practices; and (3) explain why the proposed use will not significantly increase the cost of those practices.

The closest farmland in the area is to the east of the subject property, across Airport Road. There, six large parcels are engaged in farming activity, growing hay or grass seed. To the south, south of Keil Road, there are several farms in orchard and row crop use. To the north, north of Arndt Road, are a variety of farms ranging from growing hay and grass seed to ornamentals, nursery trees, plants and row crops. Opponents Friends of French Prairie focus on farm operations distant from the proposed facility (on the west side of the Aurora Airport), and on Arndt Rd. The proposal will not have a significant adverse impact on either the accepted farming farm practices on any farm identified in the record or cost of farm practices on those operations.

Each of these properties is encumbered by the County's existing AO Airport Overlay zone (*see* Exhibit 20 (AO Zone Map)), which imposes restrictions on those properties unrelated to the proposed airport boundary expansion and proposed uses. The accepted practices on these farms include the operating of large farm machinery to plant, irrigate and harvest crops. And as noted, the use of drones in farm practices.

Given that the proposal will allow rotorcraft operations similar to the rotorcraft uses presently occurring at the Columbia Helicopters, LifeFlight and HTS properties, which have co-existing with all area farm uses, the proposed use will be difficult to discern from those existing uses. As

noted, the farming operations have not had to significantly change or bear significant cost increases as a result of those rotorcraft operations. Similarly, any airplane operations on the subject property will involve ground movement from the subject property to the taxi ways to utilize the Aurora State Airport's runway. Such movement is similar to the existing ground movement on property immediately north of the subject property. That activity also has not forced a significant change in farm operations or increased the cost of those operations.

The potential adverse impacts that could flow from the proposal include noise, dust, air, water and transportation impacts both on the ground and in the air and are addressed herein.

Noise impacts are discussed in greater detail under the findings for MCC 17.136.060(A)(4) below. Aircraft, whether rotorcraft or fixed-wing aircraft, generate noise. However, agricultural uses, such as farm uses in the vicinity of the subject property, are generally not noise sensitive uses and the associated agricultural practices are not significantly impacted by rotorcraft or airplane operations.

The application mitigates potential noise impacts to farm operations and the cost of farm operations by placing the rotorcraft take-off and landing pad on the western portion of the parcel, farther away from farm activities and separated from farm activities not only by distance, but by buildings, parking areas and Airport Road. The noise generated by rotorcraft are greatest at landing and takeoff. The fixed wing aircraft based at the facility will take off and land from the existing runway at the airport. Any noise impacts from the proposed use on farm practices cannot be said to be significantly increased, given the similarity in the proposal's rotorcraft uses with historic, existing surrounding uses from Columbia Helicopters, LifeFlight and HTS as demonstrated by the submitted noise impact study and noise contour diagram. (Exhibit 35) The noise contour diagram from Exhibit 35 shows the 55Ldn noise contour for helicopter operations falls within the existing Aurora Airport 55 noise contour, which means the noise impacts will be similar to the airport's existing noise impacts, which have had no significant adverse impacts to farm operations or the cost thereof.

As for airplane noise and potential impacts, airplanes are noisiest when taking off. As noted, no fixed-wing aircraft will take off from the subject property, rather they will taxi to the KUAO runway and takeoff there as does every airplane at the airport. Given the extensive number of flights that currently take off from the airport runway, the additional airplane flights generated by the proposal is, at most, minor and the impacts to farm practices or cost of operations from such aircraft cannot be said to be significant.

Regarding dust, dust impacts will likely be decreased by the development when compared to the property's current status as undeveloped land. The subject property is currently undeveloped with little vegetation, which can create, theoretically at least, dust clouds in certain weather conditions. The paving of extensive areas of the property, needed for landing pads, tiedown areas, buildings and parking, will reduce the potential for dust being generated on the property. This decrease in dust from the subject property will not force a significant change in or significantly increase the cost of accepted farm practices in the area.

As established by the technical materials submitted with the application (Exhibits 36 and 37 re: stormwater and wastewater respectively), the proposal's environmental impact will be nominal and will not force a change on farm uses or significantly increase the cost of farm practices. The proposed uses have feasible wastewater and stormwater systems that will comply with all DEQ

requirements for wastewater and all requirements for stormwater metering and discharge such that the individual impacts and cumulative impacts from stormwater and wastewater are mitigated. This will ensure that there are no detrimental environmental impacts on the surrounding farm practices, nor will any environmental impacts create conditions that would increase the cost of farm uses.

The final consideration relates to transportation impacts. Vehicular traffic is further discussed below in the proposed findings addressing Goal 12, which are herein incorporated. In summary, Applicant's transportation impact study prepared by DKS demonstrates that the increased trips created by the proposal will not force a significant change in accepted farm practices or significantly increase the cost of those practices. (Exhibit 39, TIA) During the day, the TIA indicates that, at most, the increased traffic from the proposed use will cause a less than 5 second delay for farm vehicles when driving half-way around the entire Aurora State Airport. (Exhibit 39, page 32) This slight delay in transit on the surrounding streets cannot be enough to change farm practices or to significantly increase the cost of those practices, nonetheless, constitute a significant change or cost.

Public comments raised the issue of potential traffic conflicts with slow-moving farm vehicles along Airport Road, citing the high speeds reached by drivers largely commuting from the City of Aurora to work in Clackamas County. Those farm vehicle – high-speed driver conflicts are existing and are not the result of the proposed use. Vehicles departing from the subject property will, like farm vehicles entering Airport Road, initially be starting at a slow speed, and vehicles bringing persons to the subject property will be slowing down to enter the subject property, not traveling at high speeds. The proposed use will not be generating the type of high-speed through traffic about which comments expressed concern.

Finally, there are comments from opponents, in particular Friends of Marion County (FOMC) that helicopters and eVTOLs cannot function safely at airports with fixed wing aircraft. Along the same lines, they assert that eVTOLs are unregulated aircraft that will be used by terrorists as an attack mechanism to spur invasion of surrounding communities. Such assertions are wildly speculative and without merit.

Dr. Davis observes that the proposed facility is for commercial aircraft, not recreational aircraft and explains that eVTOLs are not ultralights and must operate consistently with FAA rules. (March 6, 2025 Hearing Exhibit 1, p 3-5) The Airport Director of the Chehalis Centralia Airport in Washington State, also an expert, reinforces this truism explaining "I am advised there have been concerns expressed that commercial eVTOL and eCTOLs are unregulated ultralight aircraft that cause safety concerns. That is incorrect. These aircraft are not unregulated ultralights in any respect and are strictly regulated by the FAA. The most recent FAA regulated program for 'Powered-Lift' aircraft came out in October 2024 and established requirements for pilot training and operations. The eVTOLs and/or eCTOLs planned on the subject property at Aurora are certified aircraft subject to a network of FAA safety, aircraft and flight rules." (Applicant's Post Hearing Submittal, Exhibit 11) The Association for Uncrewed Vehicle Systems International (AUVSI) stated the same thing in its expert support letter also in the record "FAA strictly controls the national airspace system which means no electric aircraft autonomous or otherwise, will be allowed to fly unless FAA determines that it is safe for them to do so." (Applicant's Post Hearing Submittal submitted March 27, 2025)

Dr. Davis further explains that any autonomous eVTOLs will not be allowed to fly until the FAA approves type certification for them. When drones or any other aircraft fly, they are governed by FAA's airspace rules, particularly when operating near airports. All operations at the subject property will have to coordinate with the KUAO ATC, including all autonomous or piloted operations within a 5-mile range of the tower, while flying below an altitude of 2,700 feet. Furthermore, the subject property and the surrounding farms are already within the horizontal surface areas of the airport and, under 14 CFR Part 107 (Application Exhibit 38), are required to have ATC (air traffic control) authorization to operate drones on their farms. Operations under the proposed expanded airport boundary changes none of these requirements and does not introduce any conflicts not already present because of the helicopter operations at Columbia Helicopter, LifeFlight and HTS, the Aurora State Airport generally, or airplane operations from the KUAO runway which have been operating safely under these same regulations for decades. Second, he explains that there are no documented reports of drones causing accidents at airports and there is no justification for opponents' conclusion that eVTOLs cannot safely operate at the Aurora Airport. In fact, the Orlando International Airport is developing eVTOL vertiport facilities at that very busy airport that has existing fixed wing and helicopter operations and the "Greater Orlando Aviation Authority (GOAA) is quoted as explaining "Developing a vertiport at Orlando International Airport is a key step in advancing our mission to be the global leader in the evolution of mobility." (Applicant's March 6 Hearing Exhibit 4, p 3)

Mr. Helbling, the President of the Aurora Airport Improvement Association (AAIA) and also an expert who works at Wilson Construction at the Aurora Airport, holding an FAA Commercial Instrument Multi-Engine Airplane and FAA Commercial Instrument Helicopter license for over 30 years, to include army night vision operations, explains in his expert letter (Applicant's April 10, Exhibit 3), that helicopters and fixed wing aircraft routinely operate successfully in extremely close proximity to one another. Mr. Helbling explains that HTS and Columbia's operations at the Aurora Airport are "two of the busiest heliports in the state" and are the bases for several types of heavy lift helicopters. He explains that four other companies maintain significant helicopter operations adjacent to the Aurora Airport runway to include Wilson Construction, LifeFlight, WINCO Powerline Services, and PGE. He explains that according to the FAA there have been no reported events of conflicts between helicopters and airplanes, except for a report where an incoming small airplane approaching the airport reported that "approximately 5 miles away, he could see a departing helicopter" and that such distance is "well outside the allowed minimum separation found in FAA flight regulations." He explains that helicopter operations at airports are important to successful missions, citing examples that he "has personally participated in" such as of "a patient is picked up by a rescue helicopter in the field and flown to an airport where a waiting airplane is going to move the patient to an appropriate care facility." And another of "a firefighting helicopter is grounded for a mechanical reason and awaits delivery of a critical part" that is "delivered by airplane where a waiting helicopter delivers the part to a remote firebase where the grounded firefighting helicopter gets repaired and goes back to firefighting" and "critical electrical infrastructure parts are flown via airplane where a helicopter awaits at the ready to fly the part to a remote electrical substation in mountainous terrain – all to get the power restored to millions of people."

The Director of ODAV, explains that "[t]he Aurora State Airport is an "ideal site" for the proposal because the airport "already serves as a hub for aviation in Oregon and is uniquely positioned due to its existing infrastructure and public-private partnership opportunities" and that "the proposed project leverages Aurora's strategic role in the state's aviation ecosystem – particularly through its 'through the fence' agreements – to create a key node in the emerging electric aviation grid." He

explains his support for the project because “it is “vital that Oregon” prepares for” the transition to electric powered aircraft.” He closes his letter explaining “Supporting this project is an important step toward” a future “where electric aircraft safely, cleanly and efficiently connect communities across Oregon – from the coast to the high desert” and the project “will contribute to economic development, environmental sustainability and a more connected Oregon.”

The Director of the Utah Department of Aviation, Matt Maas, explains that Utah has a robust program supporting eVTOLs development at airports as a part of the state’s “Advanced Air Mobility program” and that “[a]irports are prime locations for AAM programs because they are already aviation centers and provide a logical destination for refueling (re-electrification), maintenance, resting, loading unloading both cargo and customers” and that [e]nhancing the electrification of the airport is critical in supporting this new mode of propulsion, which will enable these aircraft to charge in 30-40 minutes.” Mr. Maas explains that “Aurora is a unique aeronautical asset positioned to play a positive infrastructure role for this technology as Aurora is a site for Oregon’s legislative partnership between private and public aviation enterprises under a specific ‘through the fence’ program designed to support aeronautical innovation and economic development.”

The Airport Director of the Chehalis Centralia Airport in Washington State writes that his airport is one of “six electric aircraft beta test sites in the state” based upon a Washington State “Electric Aircraft Feasibility Study” that “identified the benefits of electric aircraft” to include “efficient and affordable transportation for people and goods, economic growth, good jobs, additional business revenues for communities, and significant assistance to emergency preparedness and resilience in times of crisis.” He further points out that the Study points out “that electric aircraft significantly reduce noise and emissions as compared to existing combustion-powered aircraft.” (Applicant’s Post Hearing Submittal, Exhibit 11)

Ben Clayton, the CEO of LifeFlight, explains “The concerns expressed by [FOMC] regarding rotary-wing activity mischaracterize both the nature of helicopter operations and the existing aviation environment at [the Aurora Airport.]” (Applicant’s April 10 2025 submission Exhibit 5) Mr. Clayton states, “Helicopters have long coexisted safely with fixed-wing aircraft at this airport under FAA-established procedures” and that Life Flight Network alone has operated out of Aurora since 2007, providing thousands of life-saving flights to hospitals across Oregon – often under urgent or time-sensitive conditions when helicopters are the only viable options.” Mr. Clayton explains that “Aurora is already home to multiple helicopter operators, including those supporting firefighting, utility restoration, and law enforcement missions. To claim that helicopters are someone incompatible with this airport is inconsistent with both the current reality and the broader public interest.” He closes by stating “[l]imiting helicopter access at or near Aurora would undermine the state’s emergency response infrastructure and delay access to critical care for Oregonians in need” and asks that “the County *** recognize the vital public service air medical operators provide” and that such service is “not compromised by misinformation or mischaracterization.”

There is insufficient evidence presented by the opponents to establish that the proposed use would cause any of the surrounding farm operations to change their farm practices in any way and nothing that would require farmers to incur additional costs, nonetheless significant costs, as a result of the proposed uses or development. The area farms have been successfully operating in close proximity to airport uses which includes robust helicopter operations for decades and nothing about the

proposal would require these farm operations to change their practices or incur additional expenses.

The proposed airport boundary expansion and airport uses will not force a significant change in, or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Based upon the evidence in the record and the analysis provided above, the proposal is consistent with this standard.

2. *Adequate fire protection and other rural services are, or will be, available when the use is established.*

The subject parcel is served by the Aurora Fire Department and Marion County Sheriff's Department. Both already serve the adjacent properties within the Aurora airport. There are no indications of barriers that would preclude the same level of existing service being extended to the subject parcel. Applicant proposes inclusion of the subject property within the Aurora Airport land use boundary, which would place it within the existing Water Control District for the Aurora Airport that ensures adequate water supply is available to fight fires. Given the nature and scale of the proposed use and the availability of fire protection and other rural services that already exist on the property, there is no need to extend urban public facilities or services to the property. The criterion is met.

3. *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.*

The subject parcel is flat, vacant and devoid of any identified fish or wildlife habitat. The stormwater and wastewater analyses submitted by the applicant show that neither system will cause significant adverse impact on the groundwater or watershed. The uses proposed include both gas and electric aircraft, but the applicant expresses specific intent in utilizing the subject property for the siting of electric vertical take-off and landing aircraft (eVTOLs) and electric fixed-wing aircraft which do not produce emissions.

Opponents raise concerns that the proposal may produce a significant adverse impact on the Pudding River which is just over a half mile east of the subject parcel. The floodplain of the Pudding is almost exactly half a mile east of the subject parcel. The section of the Pudding directly east of the subject parcel is buffered by a wooded area 600-feet wide at its narrowest point.

The subject property does not have an immediate direct link to the Pudding River and is only connected to the river via a stormwater ditch. There is also a perennial stream that connects the Pudding which is mapped as beginning roughly 700-feet east of the southeast corner of the subject parcel. The ODAV and FAA requirements will include preparation for potential spills. Applicant will be required to obtain permits to install and operate any of the waste or stormwater systems and Applicant will be required to comply with state and federal standards. This compliance will ensure that there will not be any significant adverse impact on any of the resources identified in the standard. There is no indication that the proposed use will have a significant adverse impact on the Pudding River.

The FAA imposes standards for all rotorcraft and fixed-wing aircraft with respect to exhaust emissions to ensure that there is not a significant adverse impact to air quality. Also, Applicant notes that eVTOLs and electric fixed-wing airplanes are not expected to have any emissions

because they are electric or hydrogen powered, which Applicant indicates presents an environmental improvement for air transportation. The criterion is met.

4. *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

The uses to the North, West, and South of the subject parcel are part of the Aurora Airport, noise intensive, and will not be significantly impacted by the proposal. Applicant attests that fixed wing aircraft will not take off on the subject parcel itself. These aircraft will be stored on the subject parcel will be taxied over to the runway on ODAV property. Rotorcraft will be taking off and landing on the subject parcel. Rotorcraft also currently take off and land on the south adjacent parcel, creating noise that does not have significant adverse impact on nearby land uses. There are several residences amongst the farms to the east of the subject parcel. The closest are two home sites directly across from Airport Rd NE. One is 550-feet east, and another is 150-feet southeast from the eastern property line of the subject parcel.

Applicant's site plan shows hangers positioned on the northeastern side of the subject parcel, with take-off and land pads located on the western side of these hangers. Applicant attests that the structures will create barriers to help deflect noise from the neighbors. Applicant states that three flight paths have been proposed that orient to roughly correspond with established flight paths that avoid residential uses. The rotorcraft that will be taking off from the subject parcel will rise to an elevation of 600-feet above grade before leaving the horizontal bounds of the subject parcel, which will decrease the decibels reaching the ground after leaving horizontal bounds.

Applicant will be required to comply with DEQ's noise control regulations for airports set forth in OAR 340-035-0045. This compliance requires an approved application from DEQ. DEQ approval will ensure the noise mitigation practices on the subject parcel are sufficient to avoid significant adverse impacts on nearby parcels.

Based on the noise contours submitted by Applicant the noise from the proposal will be less than the noise already created by the Aurora Airport. The proposal will not increase the noise neighbors are already experiencing, nor cause any new adverse impacts resulting from noise.

The criterion may be met by compliance with conditions of approval.

5. *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

There are no nearby water impoundments of significant mineral and aggregate sites identified around the subject parcel. As such, the proposal will not have a significant impact on any resources. The criterion is met.

8. MCC 17.119.180.190 guides the effective date of the Conditional Use:

17.119.180 Effective date of conditional use.

Conditional uses granted by the director, planning commission or hearings officer under the provisions of this title shall not be effective until 15 days after the mailing of the notice of decision; provided, however, in case call up of the proceedings has been requested by the board or an appeal has been taken as herein provided, the conditional use shall not be effective until the planning commission, hearings officer or board has acted on the call up or appeal.

17.119.190 Conditional use right must be exercised to be effective.

Conditional uses granted under this title shall be effective only when the exercise of the right granted thereunder shall be commenced within two years from the effective date of that conditional use, unless a longer period be specified or thereafter allowed by the director, planning commission, hearings officer, or board. In case the right has not been exercised, or extension obtained, the conditional use shall be void. A written request for an extension of time filed with the director prior to the expiration of the conditional use shall extend the running of the conditional use period until the director, planning commission, hearings officer or board has acted on the request.

Applicant requests that discretion be exercised to specify what will amount to a longer period for the conditional use approval. Applicant requests a delayed effective date pending final decisions from this land use application, Oregon Department of Aviation (ODAV) and Oregon Department of Environmental Quality (DEQ) approvals.

MCC 17.119.180 specifies that the conditional use is not effective until the planning commission, hearings officer or board of commissioners has acted on a call up or appeal of the decision. MCC 17.119.190 explains that the rights granted by a conditional use decision must be enacted within two years of the effective date or receive an extension.

Applicant anticipates appeals beyond the Board of Commissioners based on the history of previous land use applications on the subject parcel. The required ODAV and DEQ approvals may also be appealed. In the event of land use approval that occurs before, or during, appeals of the ODAV and DEQ approvals, the exercise period for the conditional use permit may lapse due to these other appeals. The result would be a null decision on a technicality.

Marion County Planning Staff agrees that it reasonable to accommodate the entire process by postponing the effective date of this conditional use permit, and the two-year exercise period, until such time that the ODAV and DEQ permit processes have completed. Applicant specifically requests that the effective date for the commencement of the 2-year exercise period be the latter of either the date of the final order or decision by the County, LUBA, Oregon Court of Appeals, Oregon Supreme Court, or the date of the ODAV decision approving development of the site, or the DEQ decision approving the noise plan becomes final following all administrative and/or judicial appeals of those agency decisions, whichever of these dates occurs last. Staff recommended that the Board include this delayed effective date as a condition of approval and that any extensions to the 2-year period will also be based on the effective date as specified in MCC 17.119.190.

Opponents argue that an extension is not reasonable when the reason for granting the extension is based upon the Applicant obtaining permits. However, opponent's objection is misplaced because Applicant anticipates a lengthy appeal process as opposed to seeking time to allow it to simply obtain permits.

The hearings officer agrees that the appeal process could likely result in the lapse of a conditional use permit on a technicality. It is reasonable that the 2-year exercise period be extended as a condition of approval as the latter of either the date of the final order or decision by the County, LUBA, Oregon Court of Appeals, Oregon Supreme Court, or the date of the ODAV decision approving development of the site, or the DEQ decision approving the noise plan becomes final following all administrative and/or judicial appeals of those agency decision.

Airport Overlay (AO) Zone

9. The standards for the Airport Overlay (AO) zone are found in MCC 17.117.

17.177.010 Purpose.

The airport overlay zone is intended to minimize potential dangers from, and conflicts with, the use of aircraft at public airports based on the adopted master plans for each airport. It is to be used in conjunction with the underlying zone. If any conflict in regulation or procedure occurs with the underlying zoning districts, the more restrictive provisions shall govern. This section is intended to comply with Federal Aviation Agency Regulation FAR-77 and all other applicable federal and state laws regulating hazards to air navigation.

The proposal would expand the Aurora Airport boundary to include the subject parcel. The proposed use would therefore be coordinated with the existing operations to minimize potential dangers and conflicts resulting from the use of aircraft. In most cases the more restrictive applicable provisions are those within the underlying EFU zone. The proposed expansion and airport use may be permitted as conditional use in the EFU zone as per MCC 17.136.050(J)(4).

The proposal includes expanding the airport boundary to include the subject property to facilitate both rotorcraft and coordinated airplane operations. Regarding rotorcraft, Application Exhibit 2A shows the approach and departure paths that are consistent with FAA standards. The historic safe coexistence of helicopter operations at Columbia Helicopters and HTS and airport operations is evidence that helicopter operations, even those on properties adjacent to the Aurora Airport runway area, can be conducted safely and consistent with the purpose of the AO zone.

Regarding fixed-wing aircraft, the subject property has direct access to a taxiway, used by other TTF operations, that leads to the Airport main taxiway and runway. Aircraft using the taxiway will operate similarly to the other TTF operations, which have operated safely.

Applicant states that rotorcraft operations from the subject property will have their own imaginary surfaces. However, because the imaginary surfaces for vertiports/heliports are smaller than those for public use airports, the imaginary surfaces fall within the AO overlay zone established for the Aurora State Airport. Applicant posits that all development in close proximity to operations on the subject property will be safely regulated and no additional properties will be burdened by the AO overlay zone. (Application Exhibit 59) (14 CFR Part 77 (showing heliport imaginary surfaces at FAR 77.23 and civil airport imaginary surfaces at FAR 77.19); (Application Exhibit 60) (Aurora State Airport FAR Part 77 Airspace Diagram); and Application Exhibit 61 (Exhibits for OAR Chapter 660 division 13 Airport Zone Standards (showing required distances for approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces for public use airports and heliports)).

All aircraft departing from, arriving to, or operating in the vicinity of the Aurora State Airport must coordinate operations with the ATC or follow communications protocols when the control tower is not operating, the potential dangers or conflicts between the proposed uses and existing operations will be minimized.

There do not appear to be conflicts between the underlying zoning and the AO zone, and the proposal minimizes potential dangers from or conflicts with existing airport and airport related uses. Therefore, proposal is consistent with the purpose of the AO zone.

10. Airport Districts are addressed in Marion County Code 17.177.030.

MCC 17.177.030 Airport districts.

In order to carry out the provisions of this airport overlay zone, three airport development districts are provided within the airport overlay zone. These three districts are shown on the official zoning map showing the height limits adopted at the time the airport overlay zone is applied.

A. Airport Development District. This district consists of those lands, waters and airspace area at or below the primary, transitional and approach surfaces described in MCC [17.177.020\(C\)](#).

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.

B. Horizontal Surface District. This district consists of the land, water and airspace underneath the horizontal surface as described in MCC [17.177.020\(C\)](#).

1. Use Limitations. Any use, accessory use, building and structure allowed in the underlying zone shall be permitted provided the following requirements are satisfied:

a. No obstruction shall penetrate the horizontal surface as defined in MCC 17.177.020(C).

b. Sanitary landfills, sewage lagoons or sewage sludge disposal shall not be permitted closer than 10,000 feet to the airport runway.

c. Conical Surface District. This district consists of the land, water and airspace underneath the conical surface as described in MCC 17.177.020(C).

The subject property is within the transitional surface area for the Aurora Airport and is, therefore, within the Airport Development District as defined in MCC 17.177.020. Any development on the subject property shall be designed consistently with the listed standards that negate potential hazards to air navigation. The uses and developments proposed are consistent with these standards.

11. MCC 17.177.040 provides the required information for an applicant seeking a building permit in an Airport Overlay Zone.

MCC 17.177.040 Procedure.

A. An applicant seeking a building permit involving any use or structure regulated by the airport overlay zone shall provide the following information in addition to any other information required in the permit application:

- 1. Property boundary lines as they relate to the airport approach and the end of the runway;*
- 2. Location and height of all existing and proposed buildings, structures, utility lines and roads.*

Applicant is not seeking a building permit involving any use or structure. This standard does not apply to this proposal. Applicant will comply with this requirement at the time a building permit is sought. The proposal is consistent with this standard.

B. Proposed buildings or structures shall be approved by the building inspector if it is determined that they will not extend above the airport surfaces as defined in MCC 17.177.020(C).

Applicant is not seeking a building permit involving any use or structure. This standard does not apply to this proposal. As the site plan shown on Application Exhibit 1, as modified at the March 6, 2025 hearing, and building descriptions in Exhibit 1B as modified at the March 6, 2025 hearing demonstrate, Applicant can and will comply with this requirement at the time a building permit is sought. The proposal is consistent with this standard.

C. An applicant seeking rezoning, a conditional use permit or a variance involving any use, building or structure regulated by the underlying zone or the airport overlay zone shall be reviewed in accordance with the applicable procedure in this title. During this review process, the State Aeronautics Division shall be notified of the proposal and any public hearing, be given an opportunity to comment and be notified of the decision.

Applicant is seeking a conditional use permit for uses within the AO zone. This standard applies. Applicant has submitted the required application materials for the proposed use within the proposed expanded airport boundary. The evidence in the record demonstrates that the proposal is consistent with the limitations on development imposed by the Airport Development District. ODAV has been notified of the proposal and will be subsequently notified of public hearings regarding the proposal.

The proposal is consistent with the requirements of the AO zone.

Statewide Planning Goals

12. The proposal involves a comprehensive plan amendment to the boundary of the Aurora Airport in the County's Transportation Systems Plan (TSP). The MCCP does not contain specific review criteria for plan amendments, however, amendments to a comprehensive plan, to include adding a map of an expanded airport, must demonstrate that the proposal is consistent with all the Statewide Planning Goals as well as demonstrate consistency with other portions of the Comprehensive Plan and with OAR 660-013-0040 Aviation Facility Planning Requirements. The relevance of each goal in this proposal is discussed below.

Goal 1: Citizen Involvement

The County's procedures for notice and public hearings provide opportunities for citizen involvement. The goal is satisfied.

Goal 2: Land Use Planning

The application for expansion of the airport boundary to include the subject parcel, and airport uses on the subject parcel, has been submitted with Marion County Planning Department to review compliance with applicable zoning ordinances. Comments received on the application are included in the record. The Marion County Planning Staff recommendation was presented to the Hearings Officer for consideration and application of applicable case law. The Hearings Officer makes this recommendation to the Marion County Board of Commissioners who will make the decision for the County. The goal is satisfied.

Goal 3: Agricultural Lands

The proposal seeks to expand an airport boundary onto EFU land and to allow airport uses within the airport boundary. The Oregon Legislature has adopted a statute that allows on land zoned EFU transportation facilities and improvements not otherwise allowed by the statute subject to LCDC rule and a demonstration of compliance with ORS 215.296, the farm impacts test.

The relevant LCDC rule is OAR 660-012-0065(3), which is addressed in detail above and which provides, in relevant part:

"The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:

* * * *

(n) Expansions or alterations of public use airports that do not permit service to a larger class of airplane[.]"

As stated, the proposed airport boundary expansion will not permit service to a larger class of airplane. Application Exhibit 40. The Court of Appeals has explained that this means to include in the Aurora State Airport boundary the private through the fence operations like that proposed on the subject property. The court also explained that the type of expansion that does not fall within the rule – that provides service to a larger class of airplane – refers to an expansion that increases the design standards or otherwise permits the airport to serve a group of fixed-wing aircraft that have a greater variety of approach speeds, a greater variety of maximum takeoff weights or a greater variety of wingspans or tail heights. *Schaefer v. Oregon Aviation Department*, 312 Or App at 345 (Exhibit 4).

The proposal does not increase the design standards for the airport or otherwise permit the airport to serve groups of fixed-wing aircraft beyond those the airport has historically served. Therefore, under OAR 660-012-065(3), the proposed expansion of the airport and airport uses are consistent with Goal 3 as a matter of law.

The farm impacts test of ORS 215.296 is mirrored in MCC 17.136.060(A)(1)’s “force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding land devoted to farm or forest use” wording. The demonstration of compliance with that standard from the conditional use section above is hereby incorporated. Because the proposal satisfies the farm impacts test as explained above and is consistent with the requirements of OAR 660-012-0065(3)(n) as is also explained above, the proposed airport boundary expansion is consistent with the statute that implements Goal 3.

Likewise, OAR 660-012-0065(3)(n) allows alterations in uses and development within a public use airport boundary such as the airport uses proposed here. Generally, uses allowed on exclusive farm use land, and under what conditions, are regulated by ORS 215.283. However, the Court of Appeals has explained:

“ORS 836.625(1) clarifies that ‘[t]he limitations on uses made of land in exclusive farm use zones described in ORS 215.213 and 215.283 do not apply to the provisions of ORS 836.600 to 836.630 regarding airport uses’

* * *. As explained above, the provisions of ORS 836.600 to 836.630 allow airport uses and supersede ORS 215.213 and 215.283 “[w]ithin airport boundaries.” ORS 836.616(2); *see also* OAR 660-013-0100 (requiring local governments to ‘adopt land use regulations for areas within the airport boundaries’ that authorize the airport uses enumerated in ORS 836.616.” *Schaefer v. Oregon Aviation Board*, 312 Or App at 334-35 (brackets in original) (Exhibit 4).

The proposed airport uses are specifically allowed uses within airport boundaries and are allowed uses on EFU land. Because they also comply with the significant impacts test, they are consistent with Goal 3.

The proposed expansion of the airport boundary for the public use airport and the proposed airport uses are consistent with Goal 3.

Goal 4: Forest lands.

The subject parcel is not itself, nor adjacent to, forest lands. Applicant asserts that as a result of the proposed development, remote firefighting capabilities may be expanded which would contribute to conservation of forest lands. The goal does not apply.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

The subject property is not affected by this goal, the goal does not apply.

Goal 6: Air, Water and Land Resources Quality

Compliance with Goal 6 requires evidence that it is reasonable to expect a proposal will be able to comply with applicable state and federal environmental quality standards. The applicant suggests that the proposed use of electric powered aircraft will result in far less emissions than the existing petroleum powered aircraft used at the Aurora Airport. As a result of the airport boundary being expanded, Applicant will have to meet all state and federal standards for aviation uses.

The subject property is not located within an identified air or watershed protected area. The proposed uses within the expanded airport boundary are not the type of uses that will result in significant particulate discharges into the air inconsistent with federal and state air pollution regulations. As the evidence in the record shows and as discussed above, one of the drivers for this proposal is to provide facilities for emerging electric-powered eVTOLs and electric fixed-wing aircraft, which are by far more environmentally benign than conventional piston-powered aircraft. Furthermore, federal regulations prohibit the application of state or local standards to regulate emissions from rotorcraft and other aircraft engines that are not identical to corresponding federal standards. (Application Exhibit 41, 40 CFR Part 1031 Control of Air Pollution from Aircraft Engines). Aircraft operating at the expanded airport can and will comply with those standards.

The evidence entered into the record from EMS demonstrates that there are a variety of feasible solutions to handle the wastewater expected to be produced by development of the property within the expanded airport boundary. The EMS materials establish that each approach could comply with State and County regulations governing septic disposal and can be approved by DEQ. Exhibit 37 (EMS Wastewater Analysis). Applicant explains how each of these potential solutions are both feasible and comply with DEQ standards. Applicant's evidence also explains why there will not be adverse cumulative effects under the identified systems. Compliance with these environmental quality regulations will be administered through the County and will ensure consistency with this goal. Contrary to the Schaefer letter, the fact that the property has feasible septic options necessarily means that the proposal does not exceed the carrying capacity of the subject property and is not contrary to Goal 6.

Evidence submitted by Applicant's engineer and consultants demonstrates that the subject property can have its own, safe and adequate water system supported by an on-site well. The well was tested and found to be a high-volume, producing a steady 40 gallons per minute for two hours. Application Exhibit 42 (Water Analysis (Shiloh Water Systems test results)). The water was also of good quality water, with the only contaminant above the EPA's maximum prescribed level being arsenic. Applicant's Exhibit 42 (Water Analysis (Edge Analytical test)). Applicant has

submitted evidence of a filtration system that will remove arsenic from the water and the cost for such a system, which is feasible to implement. (Application Exhibits 42-43) Applicant entered evidence into the record that proposes a pump and filtration system designed to provide adequate water flow and quality necessary for the site and proposed uses and includes provisions for maintenance and services of a certified water systems operator. As Mr. Faegre explained in Applicant's March 6 Hearing Exhibit 2, there is arsenic in both City water and groundwater in the area and it is completely feasible and normative to filter it out as is proposed here.

There are no MCCP identified wetlands or streams on the subject property. As explained above, the applicant has submitted a stormwater report and design, prepared by a registered professional engineer, into the record. Comments from the project manager notes, and Applicant accepts, the need for a stormwater drainage and detention improvements and DEQ NPDES permitting. Application Exhibit 36 (Mackenzie Stormwater Analysis). Those materials demonstrate that a feasible solution exists for managing stormwater runoff from the property that complies with state and federal environmental quality standards. Opponents assert that storm water from the proposal will adversely affect the Pudding River, ignoring that "[t]he proposed site can detain the required amount of volume" utilizing "a combination of 18" strip drains, detention pipes, and detention ponds" that will "detain water ahead of release off site and allow some surface ponding to occur," and that when released, water will be released at a such that a post-developed 10-year storm will be discharged at the existing 5-year runoff rate and will not exceed "the 5-year design discharge" for the 6,426 feet (1.2 miles) it then travels along Airport way in the existing ditch. Application Exhibit 6, p 2. It is unlikely that such stormwater run-off from the proposed facility will harm salmonids in the Pudding River more than a mile away from the subject property.

The stormwater analysis contains basin-wide data and analysis that demonstrates that the basin has sufficient capacity to handle permitted levels of stormwater discharge from the subject property and other properties within the basin such that there will not be adverse cumulative impacts from the proposed and potential development within the basin.

Regarding issues concerning air quality such as potential dust or smoke discharges, many of the uses proposed resemble those of the adjacent helicopter businesses and aircraft operations and there has been no complaints of adverse air quality impacts from those rotorcraft businesses or the airport. The same is true for aircraft movement within the adjacent TTF areas or from the TTF areas to the runway. Further, as demonstrated in the letters in the record from the various aviation experts, the proposal's focus on providing infrastructure for electric aircraft means that there will be next to no emissions because electric motors create virtually no emissions.

The evidence in the record demonstrates that the proposal will not result in water or air waste discharges that, individually or collectively with other discharges in the area, will threaten to violate or violate applicable state or federal environmental quality statutes, rules and standards.

Applicant provides evidence that both well and septic are feasible on the property. DEQ approval of the septic system will ensure compliance with state standards.

Applicant states that stormwater drainage, detention improvements and a DEQ National Pollutant Discharge Elimination System (NPDES) permit will be required to mitigate and manage stormwater runoff. The applicant provided a stormwater analysis demonstrating a feasible solution for managing stormwater that will comply with state and federal standards.

The cumulative effects of both stormwater and septic drainage were taken into account by the respective consultants hired by the applicant. Evidence was provided that the stormwater runoff will not exceed the capacity of the existing drainage system. Evidence was also provided that septic can be provided without discharge contributing to a cumulative negative impact on the soil or groundwater.

Applicant addresses several different potential solutions for the septic system. Applicant's consultant addresses the two options for septic dispersal on the subject parcel itself. The first option addressed is a holding tank, a system which involves total removal of wastewater from the property for processing at a wastewater treatment plant. The second is a septic system meeting the standards for a Water Pollution Control Facilities (WPCF) permit. The latter system suggested by the consultant would be built to a higher standard than the minimum standards for a WPCF permit, including effluent released with lower biochemical oxygen demand, lower total suspended solids, and a higher standard of bacteria treatment by ultraviolet light treatment at 99% efficiency prior to discharge.

Applicant has provided evidence that the proposal will be able to comply with all applicable state and federal environmental standards and will not decrease air, water, or land resource quality either by itself or cumulatively with the rest of the Aurora Airport. Goal 6 is satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards

The subject property is not within either the floodplain or geohazard overlays. Applicant suggests that the establishment of rotorcraft on the subject parcel may enhance the Aurora Airport's ability to assist in emergency response during the next Cascadian subduction earthquake.

Applicant's consultant, GeoDesign, conducted geotechnical analysis at two other sites within the airport area, namely the Lima North Hangar Site to the west of the subject property and the Fuel Farm Site to the southwest of the subject property, for which GeoDesign did a site-specific seismic hazard evaluation. (Exhibit 44) The consultant is familiar with the site-specific conditions of the immediate area, which were supplemented by an exploratory soil boring and a cone penetration (CPT) probe on the subject property site.

Analysis of the samples gathered from those two on-site probes indicate that the soil conditions of interbedded seams and layers of sand, silty sand, clay and silt at the subject property are similar to the geology and subsurface conditions from the Lima North Hangar site and the Fuel Farm site. Significantly, although the general Relative Earthquake Hazard Maps (Madlin, Ian P. and Wang, Zhenming, 1999) indicate an intermediate to high hazard earthquake risk to the southern portion of the airport (located beyond the subject property more than 2,000 feet away from the subject property), the work completed by GeoDesign on the subject property indicates a relatively low seismic risk exists for development on the subject property.

Goal 7 is satisfied.

Goal 8: Recreation needs

No recreational space is present on the subject property. Applicant notes that potential private recreational aircraft or eVTOL use would be possible on the subject parcel but is not specifically being proposed. The subject property is not designated for recreational use and is not currently used for recreational purposes. Goal 8 does not apply.

Goal 9: Economic Development

This goal does not apply outside of an urban growth boundary. However, Applicant explains that the proposed development will create jobs and will likely attract early adopters of electric aircraft that may have direct or indirect positive economic impacts on the surrounding area and County as a whole. The private side of Aurora State Airport annually contributes \$1.9 million into the local schools, police, fire and other Marion County services through various tax payments made by the businesses and their employees. Private development as proposed will add to those annual contributions. The proposal is consistent with Goal 9.

Goal 10: Housing

This goal applies to land within urban growth boundaries. This goal does not apply.

Goal 11: Public Facilities and Services

Applicant is not proposing the need for public water or sewage services to be extended. Applicant provided evidence that on-site water, wastewater, and stormwater facilities are all feasible. Applicant submitted expert technical evidence that demonstrates that it is feasible to design and maintain a pump and filtration system that provides adequate water flow and quality necessary for the site and proposed uses. Similar technical evidence demonstrates that adequate sewer and stormwater systems can be designed that meet state and federal requirements. The subject property presently has electrical service and gas service provided to it.

Existing fire and police services for the subject property are adequate for the proposed use. The proposal does not include any community or public facilities or services that will serve other properties.

The evidence in the record supports the conclusion that multiple development options to appropriately manage wastewater are feasible and practicable, with the latter options requiring appropriate subsequent additional land use approval.

Finally, and most specifically, OAR 660-012-0065(3)(n) which allows for expansions and alterations to a public use airport as consistent with Goals 3, 4, and 11. Goal 11 is satisfied.

Goal 12: Transportation

Goal 12 is implemented through the Goal 12 rule at OAR chapter 660, division 12. Airports are transportation facilities under Goal 12 and are subject to compliance with the Airport Planning Rule at OAR Chapter 660, Division 13.

OAR 660-013-0160(3) provides:

Compliance with the requirements of this division shall be deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR 660, division 12 regarding Airport Planning.

Direct compliance with Goal 12 and OAR 660-012 (the Transportation Planning Rule or TPR), are not required because the proposal demonstrates compliance with OAR 660 Division 13, which therefore deems the proposal to be consistent with Goal 12 and the TPR. Therefore, findings demonstrate compliance with the Airport Planning Rule for the proposed expansion of the Aurora State Airport and the proposed airport-related uses within the expanded airport boundary.

The proposed airport expansion and proposed airport uses within the airport boundary are allowed under the present zoning as a conditional use and there is no accompanying change to either the zoning or plan designation for the property to trigger the TPR. Accordingly, because the zoning and the plan designation for the subject property remain the same after approval of this Application, the allowed airport boundary expansion and airport uses are deemed to have already been factored into the transportation impacts analysis for the TSP and the County can reasonably conclude that the Goal 12 rule's significant impacts analysis is not triggered on the basis of the terms of the TPR as well. *See Ooten v. Clackamas County*, 70 Or LUBA 338 (2014), *aff'd*, 270 Or App 214, 349 P3d 1305 (2015) (to determine whether a redesignation "significantly affects" a transportation facility, a local government should compare the most traffic-generative use reasonably allowed in the current zone with the most traffic-generative use reasonably allowed in the new zone).

The current Marion County Transportation System Plan (TSP) was adopted on December 21, 2005. Pursuant to OAR 660-012-0005(40), the planning period for the TSP is the 20-year period following the date of adoption, which makes the end of the planning period December 21, 2025.

Applicant's transportation consultant, DKS Associates, conducted transportation studies related to the subject property and to the Aurora State Airport. The most recent of those studies is the 2024 TIA (Exhibit 39)

Based on the analysis contained in the 2024 TIA, the proposed development does not have a significant effect on any transportation facilities. The 2024 TIA (Exhibit 39) analyzes seven (7) different transportation facilities/intersections involving five (5) roads in the vicinity of the subject property and the three (3) entrances/exits to the subject property. The TIA includes an analysis of the existing conditions for each of the relevant intersections, as well as a safety analysis based on the most recently available data.

The evidence in the record supports the conclusion that the proposal will not have a significant effect on transportation facilities and that the proposal complies with the requirements of Goal 12 and the Transportation Planning Rule.

Goal 12 is satisfied.

Goal 13: Energy Conservation

The proposal is consistent with the goal of conserving energy in several ways. The proposal involves electric powered aircraft which will require less non-renewable petroleum resources. The expansion of the Aurora Airport to include the subject parcel for airport uses is more energy efficient than establishing the proposal elsewhere, considering the aviation related travel. The subject property's proximity to major established transportation routes in the County ensures efficient travel times and distances to and from the subject parcel. The proposal is consistent with Goal 13.

Goal 14: Urbanization

As with Goals 3, 4, and 11 above, OAR 660-012-0065(3)(n) provides that this proposed expansion and alteration of the public use Aurora State Airport, because it does not permit a larger class of airplane and so is deemed to be consistent with Goal 14.

The Airport Layout Plan (ALP) Aurora State Airport Master Plan adopted in 1976 and that is included as an acknowledged part of the Marion County Comprehensive Plan envisioned the subject property as appropriate for the type of airport uses and related development proposed here, whether one considers it urban or rural. This proposal represents the orderly and efficient transition to the use for which it is designated by the County Plan. The proposal is consistent with Goal 14.

Goal 15: Willamette River Greenway

Goal 16: Estuarine Resources

Goal 17: Coastal Shorelands

Goal 18: Beaches and dunes

Goal 19: Ocean Resources

The subject property and proposal will not affect the Willamette River Greenway, any estuary, coast or ocean. These goals do not apply.

Marion County Comprehensive Plan

13. The Marion County Comprehensive plan outlines policies to guide development. As noted, the MCCP does not contain specific review criteria for plan amendments, but plan amendments must be consistent with applicable MCCP goals and policies.

The following policies are relevant or applicable to the proposal. Excluded policies are those found to be inapplicable.

Rural Lands

14. The general development policies applicable to rural lands in Marion County are:

1. All land divisions should be reviewed by Marion County for their compatibility with County goals and policies.

The applicant is not proposing a land division, this policy does not apply.

2. “Strip-type” commercial or residential development along roads in rural areas shall be discouraged.

The proposal is for neither commercial nor residential development that could be described as “strip-type.” Hangars similar to those proposed here are found throughout adjacent properties and are typical for aviation-based transportation facilities and related uses. The use of such buildings will not appear out of context given the development of the adjacent surrounding properties.

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

The proposed expansion is compatible with the existing airport development to the north, west, and south of the subject parcel. The airport use is better suited for siting near similar uses, and those uses that are not noise sensitive such as crop farming, than near dense urban residential development. The proposal’s compatibility with agricultural goals is accomplished by compliance with the farm impacts test administered as part of the Conditional Use criteria (MCC 17.136.060(A)(1)). The proposal is consistent with this policy.

Agricultural Lands Policies

15. The proposal must be consistent with the County Plan’s agricultural goals and policies.

1. Preserve lands designated as Primary Agriculture by zoning them EFU (Exclusive Farm Use). Lands designated as Special Agriculture should be protected by the corresponding SA zone and farmland in the Farm/Timber designation should be protected by the Farm/Timber zone.

The proposal does not involve changing the zoning or designation of the subject property, which is zoned EFU. The proposal seeks a use that is identified as a permitted conditional use in the EFU zone that OAR 660-012-0065(3)(n) states is consistent with Goal 3, Agriculture. The proposal is consistent with this policy.

Marion County’s acknowledged Comprehensive Plan specifically designates the subject property as being appropriate for airport related uses under private ownership, even though it is zoned EFU because the County’s Plan includes the 1976 Aurora Airport Master plan as an element and that 1976 airport master plan designates the subject property for airport related development and recommends that it be zoned “Airport Development.” (See Application Exhibit 6, p 50)

2. Maintain primary agricultural lands in the largest areas with large tract to encourage larger scale commercial agricultural production.

The subject property consists of two tax lots totaling 16.54-acres zoned EFU. The property is surrounded by airport uses to the north, west, and south. Airport Rd NE borders the eastern edge of the property, and on the other side of the road is a large tract of land in agricultural use. The property was not historically utilized for agricultural purposes, but rather as a church camp and retreat since at least sometime prior to 1970. The proposed use does not infringe on the agricultural uses to the east, nor does it remove agricultural land that could be utilized for large scale commercial agricultural production. Therefore, the proposal is consistent with this policy.

3. Discourage development of non-farm uses on high-value farmland and ensure that if such uses are allowed that they do not cause adverse impacts on farm uses.

Applicant acknowledges that non-farm uses on high-value farmland are discouraged, and notes that this policy is discretionary. The subject parcel is surrounded on three sides by the Aurora Airport. The proposed use is one that the EFU zone expressly allows and so is not properly characterized as a “nonfarm use” because ORS 215.283 treats it as an appropriate use of land zoned EFU. As discussed above, the criteria in MCC 17.136.060(A) for a conditional use, which includes the farm impacts test, has been met. Therefore, the proposal is consistent with this policy.

Rural Services Policies

16. The proposal must be consistent with the County Plan’s rural services policies.

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

The proposal includes explanations of feasible onsite water and stormwater services and no extensions onto other properties will be required for these services. The applicant provides expert testimony to affirm that DEQ approved wastewater treatment is feasible onsite. The 2024 Traffic Impact Analysis (TIA) shows that the proposal will not result in significant impact on a transportation facility. The applicant proposes a condition of approval of ½ street frontage improvements on Airport Rd and paying a fee in-lieu. The proposal is consistent with this 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.

The subject property is within the area designated in the 1976 Aurora Airport master plan as being appropriate for airport related uses under private ownership. This does not conflict with the general policy of maintaining the rural character of areas outside of urban growth boundaries.

The proposal is also contemplated per ORS 836.640 and 642 which states that “through the fence” areas as proposed at the Aurora Airport are to be encouraged and included in the airport boundary. The proposal is authorized and contemplated by state law and does not require the extension of urban services to the site. All services will be provided on site or within the airport boundary. Evidence in the record demonstrates that the subject property has adequate onsite capacity and resources to serve the proposal’s water, sewer and stormwater needs. Application Exhibits 42, 43, 36, 37 respectively.

The subject property is located immediately adjacent to other aviation-oriented TTF operations within the airport boundary and an adjacent rotorcraft-oriented business (HTS) that are presently not connected to urban services other than the existing HDSE wastewater system that serves multiple Aurora State Airport parcels and that is still performing at well below capacity.

The proposal is consistent with this 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.

The proposal is designated as appropriate for the use within the Aurora Airport master plan. The proposed expansion of the airport boundary would allow the property to enact uses appropriate within the Aurora Airport. No new facilities or services to serve the proposed development would be required. In addition to finding that onsite wastewater is feasible, Applicant proposed the other possibilities of connecting to the existing HDSE wastewater system which is located entirely within the Aurora Airport boundary, or the southern adjacent Columbia Helicopters drain field which is also within the Aurora Airport boundary. The proposal will not encourage development inconsistent with maintaining the rural density and character of the area and will not promote the increased development on other rural properties. The proposal is consistent with this 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.

Applicant has established that onsite services are feasible, and that there is also the potential for alternative wastewater options within the Aurora Airport boundary. No public facilities are required, and the private systems would not be incongruous with rural character of the area. Services scaled to meet the requirements of the proposed airport uses within the expanded airport boundary will not require exceeding the rural densities specified in the MCCP. The proposal is consistent with this policy.

Air, Rail, Water, Energy and Pipeline Transportation Policies

17. The proposal must be consistent with the County Plan's Air, Rail, Water, Energy and Pipeline Transportation Policies as these modes are an important part of the existing and future transportation network in terms of moving freight, passengers, services and information in the County.

1. Airports and airstrips shall be located in areas that are safe for air operations and should be compatible with surrounding uses.

The proposal would expand the Aurora Airport boundary to encompass the subject parcel, which is itself designated within the Aurora Airport master plan as appropriate for airport uses. The southern adjacent parcel accommodates takeoff and landing of helicopters, and the north and western parcels contain hangers with aircraft that utilize the Airports runway. The parcel is within an area that has proven to be safe for air operations and is compatible with the surrounding uses.

The helicopter-based operations at the HTS and Columbia Helicopters properties demonstrate that rotorcraft can safely take off, land and operate near the Aurora State Airport fixed-wing airplane operations as well as with the surrounding agricultural lands. The fixed-wing airplane operations at the surrounding TTF operations and ODAV-owned parts of the airport demonstrate that the area is safe for fixed-wing operations and are compatible with surrounding uses.

The range of proposed airport uses is compatible with the surrounding uses – both at the airport and on agricultural land. The proposal is consistent with this policy.

2. The County should review and take appropriate actions to adopt State master plans for public airports in Marion County.

The proposal is consistent with Aurora Airport Master Plan of 1976 which is adopted into the County's comprehensive plan. The area is specifically designated as acceptable for airport related development under private ownership. The proposal is consistent with this policy.

3. The County will adopt appropriate provisions (including plans, ordinances and intergovernmental agreements) to protect the public airports from incompatible structures and uses. These provisions will be consistent with Federal Aviation Administration guidelines.

These provisions are provided for within MCC 17.177 Airport Overlay zone. The subject property falls within the Horizontal Surface District of the Aurora State Airport. A demonstration of compliance with the AO zone requirements is provided above and is herein incorporated. The proposal is consistent with this policy.

4. The County will discourage noise-sensitive uses from locating in close proximity to public airports.

The proposed expansion would be within the Aurora State Airport's Ldn 55-65 dBA noise contour, and the aircraft uses on the property would be compatible with those noise levels. The proposal is consistent with this policy.

Transportation System Management Policies

18. The proposal must be consistent with the County Plan's Transportation System Management Policies. The purpose of Transportation System Management (TSM) strategies is to maximize the capacity, safety, and efficiency of the existing transportation system through the application of traffic control improvements, access management, and land use controls. The relevant policies related to access management are addressed below.

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.

The County will use this policy to determine potential requirements to mitigate traffic impacts (as opposed to being an approval standard). Applicant has submitted a TIA and other supporting evidence to demonstrate that the mitigation of potential traffic impacts. The proposal is consistent with this policy.

Development and Access Policies

19. The proposal must be consistent with the County Plan's Development and Access policies which provide guidelines for linking transportation and land use in an attempt to provide suitable

transportation facilities while protecting and preserving the agricultural and rural nature of the County. The policies also outline right-of-way and roadway improvement requirements for new developments in the County.

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.

Applicant submitted a Traffic Impact Analysis in which the roadway classifications are addressed. Applicant acknowledges the County will use this policy to determine potential requirements to mitigate traffic impacts. The proposal is consistent with this policy.

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.

The TIA submitted by the applicant confirms that the proposal is consistent with this policy. Additional standards, and any mitigation, will be required by Marion County Public Works.

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.)

The subject property would take access from Airport Road NE and Stenbock Way NE. The Rural Transportation Systems Plan (RTSP) indicates capacity for an additional 3,000 daily drips on Airport Road NE, which is classified as a major collector. The TIA submitted by the applicant suggests that the proposal will not generate trips that could exceed the capacity of Airport Road NE. All access points to the subject property will operate consistently with the functional classification of Airport Road. The proposal is consistent with this policy.

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).

The obligation to minimize access points is not an approval criterion, rather the controlling criteria is the access management standards. The County will ensure that the Applicant complies with access management standards through the site review process. Applicant's site plan, TIA, and related analysis demonstrates that compliance with the County's access management standards is feasible for the proposed uses on the subject property. The proposal is consistent with this policy.

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

Applicant submitted an engineer's report regarding stormwater management requirements and a proposed system design for review by Marion County Public Works. (Exhibit 36) The proposal is consistent with this policy.

Right-of-Way Policies

20. The proposal must be consistent with the County Plan's right-of way policies. There is a significant amount of public right-of-way in Marion County. Much of it is occupied by roads, while some remain undeveloped. Policies with respect to use of this public right-of-way include:

Policy 2. New transportation facilities of all types should use existing rights-of-way to the extent possible to minimize disruption to existing land use.

The proposal is for an aircraft transportation facility that would only utilize existing rights-of-way to for access and egress onto the subject property. There is no indication that access to the parcel will result in significant disruption to existing land use in the area. The proposal is consistent with this policy.

Marion County Economic Development Goals

21. The proposal must be consistent with Marion County Economic Development Goals. Marion County's major economic goals are:

a. Provision of increased employment opportunities for all residents of the County;

The findings establishing Goal 9 compliance above are herein incorporated. The proposed airport expansion and airport uses will provide increased employment opportunities. Construction related to building the proposed airport uses will require employment of skilled workers during the period of development and once the project is developed as well. The services provided at the airport uses will provide a range of employment opportunities for white collar, skilled and unskilled workers. Services related to expanded operations and services related to eVTOL and other electric-powered aircraft services will require the creation of new employment opportunities as will any expansion provided to companies such as Columbia Helicopters and Life Flight that are seeking locations for expansion. Also, as the ODAV 2014 economic analysis demonstrates, aviation-based activity creates economic opportunities in the area immediately around the activity as well as the greater region. (Exhibit 46) ODAV's 2021 economic analysis for the Airport showed similar economic benefits. (Exhibit 47) The proposed airport uses will provide increased employment opportunities. The proposal is consistent with this policy.

b. Maintenance of a strong agricultural economy;

The proposal has met the conditional use criteria, that includes the farm impacts test, in MCC 17.136.060(A) and will therefore not be detrimental to the agricultural economy. Neighboring agricultural operations may now, and in the future are likely to, utilize electric takeoff and

landing vehicles in their operations. The proximate location of the proposed vertical takeoff and landing aircraft facility where such aircraft can be hangered/stored for lease to farmers, will enable neighboring agricultural operations easy access to such aircraft that they are otherwise unable to afford to own or lack storage capacity or maintenance expertise. The proposed facility could serve as a leasing hub for aircraft such as large agricultural drones. The proposal is consistent with this policy.

d. Diversification of the economic base of communities, and expansion of seasonal employment opportunities to year-round status wherever possible;

The proposal would allow for development of a site for the next-generation of eVTOLs and electric-powered fixed-wing aircraft. This diversification of aerial vehicles will create a diversification of job opportunities at the Aurora Airport, for the County as a whole. The Aurora Airport is well-known to be a significant source of tax, wage and direct and indirect tourist and other spending revenue for Marion County and the immediately surrounding communities. However, the Airport does not currently have the capability to serve electric aircraft. The proposal enables the airport to diversify to include electric aircraft facilities served by the proposed hydrogen electricity source that otherwise does not exist at the airport. The proposal is consistent with this policy.

f. Development of a transportation system for the safe and efficient movement of persons and goods for present needs;

The 1976 Aurora Airport master plan indicates the need for growth in helicopter operations. The applicant submitted letters from potential users of the proposed facilities supporting the present need for an eVTOL site which is not currently available at the Aurora Airport.

There is a need for facilities for electric aircraft, in particular eVTOL aircraft. *See, e.g.,* Exhibit 7 (Draft Master Plan Update); Applicant's Post Hearing Submittal Exhibit 6, Exhibit 52 (Aurora State Airport constrained Operations Runway Justification Study); Exhibit 53 (TransportUp, "Oregon will use up to 126 Jump eVTOL aircraft for emergency response"); Exhibit 54 (Flying Magazine, "More than 100 Electric Aircraft for First Responders May be Headed to Oregon"); Exhibit 51 (FAA, "Advanced Air Mobility (AAM) Implementation Plan, July 2023"); Exhibit 56 (Deloitte, "Advanced Air Mobility: Can the United States afford to lose the race?"); Exhibit 57 (Aviation International News, "Textron eAviation Shows Off FAA-Approved Velis, Works on Nexus eVTOL"); *and see* Exhibit 63.

There are currently no facilities at the Aurora State Airport or other airports that can provide power to or maintain eVTOLs and electric-powered fixed-wing aircraft, technologies that will be rolling out over the next several years. (Application Exhibit 51, FAA, AAM-I28 Implementation Plan) The evidence indicates that eVTOLs will be hitting the market by 2025, and there is a hard need for facilities and pilot studies by 2028), and see Letters from ODAV Sugahara (stating he supports the proposal recognizes it enables Oregon to not fall behind on the emerging electric aircraft program). *See, Applicant April 10, 2025 Exhibit 4, Utah Aviation Director letter at Applicant Post Hearing Submittal, Exhibit 10, Chehalis-Centralia Airport Director letter at Applicant Post Hearing Submittal Exhibit 11.*

The planning and development of public facilities to address the growing demand for the proposed airport uses has not been met and is largely being left to the private sector to address. (Exhibit 58 ODAV, Aurora State Airport Assessment Report, December 2018, p. 42-43) The proposed airport uses within an expanded airport boundary is consistent with this approach of allowing the private sector to address pressing needs and addresses a need identified by existing commercial rotorcraft operations and particularly with respect to the recent rapid development in eVTOL technology.

The proposal is consistent with this policy.

g. Coordination of planning and development of public facilities;

The proposal is for a public facility in the sense that it is for the expansion of a public use airport. The Aurora Airport master plan indicates that the subject property is appropriate for airport related uses in private ownership. The proposal is for an airport related use in private ownership. Applicant provides supporting documentation to show that public airport facilities are not being developed to sufficiently meet the growing demand for airport uses and more specifically eVTOL uses. The proposed expansion to the airport boundary, and establishment of airport uses, would allow the private sector to meet some of the demand for electric aircraft. The proposal is consistent with this policy.

Energy Policies

22. The proposal must be consistent with Energy Policies.

*Policy 1. Future development should progress in the most energy efficient manner possible.
d. Development should progress in an orderly manner. It is more energy efficient to develop adjacent vacant lands rather than to allow continued “leap frog” development patterns.*

The proposal is to expand the boundary of the Aurora Airport to provide a new electric aircraft use. As this policy specifies, it is more energy efficient to develop the subject vacant adjacent land to the existing airport rather than to “leapfrog” development of such use elsewhere.

The County’s acknowledged Comprehensive Plan includes the Aurora Airport 1976 Master Plan that identifies the subject property as suitable for airport related uses under private ownership. As this policy recognizes, development of the subject property to include it in the airport boundary and to develop the proposed airport uses is a more energy efficient approach to developing this vacant land versus any proposal to develop similar airport uses on some other vacant rural land located away from existing development. The “orderly manner” component of the policy is satisfied by the fact that the subject property has been identified in the relevant acknowledged airport master plan, as suitable to support aviation-based activities. The proposal is consistent with this policy.

23. Applicant has shown that the proposal is consistent with all applicable policies within the Marion County Comprehensive Plan.

24. The airport planning rule set forth under OAR Chapter 660 division 13 provides several planning requirements for the County with respect to the planning and development of airports. While the County has completed the initial requirements for the Aurora State Airport, and consistent with ORS 836.640 and 642, the rule provides requirements for expansion of airport boundaries such as the proposal here.

The Court of Appeals in *Schaefer v. Marion County*, 318 Or App 617 (2022) explained the requirements for expanding an airport boundary under the airport planning rule and the proposal is consistent with the court's directives. The findings below address the requirements of the Airport Planning Rule.

25. *OAR 660-013-0010 Purpose and Policy*

(1) This division implements ORS 836.600 through 836.630 and Statewide Planning Goal 12 (Transportation). The policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. These rules are intended to promote a convenient and economic system of airports in the state and for land use planning to reduce risks to aircraft operations and nearby land uses.

(2) Ensuring the vitality and continued operation of Oregon's system of airports is linked to the vitality of the local economy where the airports are located. This division recognizes the interdependence between transportation systems and the communities on which they depend.

The proposal is consistent with the stated purpose and policy of the airport planning rule. Airport vitality depends in large part upon airports remaining current and responsive to aeronautical innovation. The evidence in the record demonstrates that the proposed airport expansion will address present and near-future airport needs for electric aircraft facilities that will enable the Aurora Airport to maintain its vitality in the state's airport ecosystem. See ODAV Sugahara Letter, Applicant's April 10, 2025 Exhibit 4, Maas Utah Director Letter, Applicant's Post Hearing Submittal Exhibit 10, Chehalis-Centralia Airport Director Letter, Applicant's Post Hearing Submittal Exhibit 10.

Applicant has submitted evidence demonstrating that aviation-related employment is a significant benefit to the County, provides above-average wage jobs and contributes significantly to the County's tax base. (Exhibit 46) Mr. O'Malley's March 5, 2025 letter explains that the proposal is "expected to generate approximately \$341,840 in annual tax revenue (in 2025 dollars)" and explains that investments in "eVTOL infrastructure, including vertiports, could create tens of thousands of new jobs over the next decade." Many jobs are expected to result from the proposed airport expansion and proposed airport uses.

The existing acknowledged County Comprehensive Plan includes the 1976 Airport Master Plan ALP that designates the subject property as suitable for airport-related uses on private property. The County expected the subject property to develop as proposed to deliver exactly the electrical charging infrastructure and specific facilities for electric aircraft, the County and indeed the state needs – but lacks - for its airport infrastructure.

Applicant has submitted evidence that the proposed airport rotorcraft uses can be operated in a safe manner in conjunction with the Aurora State Airport runway using flight paths for rotorcraft taking off and landing from the subject property that do not interfere with any airport operations, similar to the existing Columbia Helicopters and HTS operations.

The proposed fixed-wing aircraft access to the airport is similar to the other safe through the fence operations at the airport. The evidence in the record demonstrates that the proposal is consistent with adopted County land use plans and state level aviation planning. In addition to the Aurora State Airport AMP and ALP discussed above, the Oregon Aviation Plan v 6.0 identifies the Aurora State Airport as one of the busiest airports in Oregon. The proposal is consistent with the Oregon Aviation Plan's forecast for continued growth, particularly helicopter growth for the airport and anticipated introduction of new aviation technologies. (Exhibit 22)

The proposal is consistent with this purpose and policy statement.

26. *OAR 660-013-0020 Definitions (in relevant part)*

* * *

(1) *"Airport" means the strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.*

(2) *"Aircraft" means helicopters and fixed-wing aircraft, but not hot air balloons or ultralights.*

(3) *"Airport Uses" means those uses described in OAR 660-013-0100.*

(4) *"Non-Towered Airport" means an airport without an existing or approved control tower on June 5, 1995.*

The above definition for "aircraft" makes no reference to the power source of the aircraft, which means it includes piston-powered and electric powered rotorcraft and fixed wing fixed-wing aircraft such as the eVTOLS and electric-powered fixed-wing aircraft the proposal seeks to attract to the airport. As the Court of Appeals explained, the current airport boundary includes the public and privately owned land shown on the 1976 ALP as the "ultimate airport property," which is the ODAV-owned property and the developed TTF area properties. *Schaefer*, 318 Or App at 620-21. (Exhibit 5, 1976 Airport Layout Plan)

The subject property is situated where the ALP designates property as suitable for airport related uses under private ownership. *Id.* The subject property is also where the 1976 "Aurora State Airport Land Use Plan says is designated for "Airport Development". Application Exhibit 6, p 50. Because this Aurora State Airport Land Use Plan is an acknowledged part of the County Comprehensive Plan, it is relevant to demonstrates that the subject property is intended to develop with "Airport Development". The proposal seeks to expand the airport boundary consistently with the 1976 Plan, as well as the requirements in ORS 836.640 and 642 to include the subject property in the airport boundary and to allow for the proposed airport related uses so that rotorcraft can land and depart from the subject property and fixed wing aircraft will have access the Airport's runway and both, if electric, have places to charge.

All the proposed uses fall into those described in OAR 660-013-0100 as airport uses. Last, as noted in the beginning of these findings, the *Schaefer* court concluded that the Aurora State Airport is a “non-towered airport” as that term is used by the rule which refers to a snapshot in time before the tower was established and despite the Aurora Airport currently having an ATC. *Schaefer*, 318 Or App at 625 n 8.

The proposal is consistent with these definitions.

27. *OAR 660-013-0030 Preparation and Coordination of Aviation Plans*

* * *

*(2) A city or county with planning authority for one or more airports, or areas within safety zones or compatibility zones described in this division, shall adopt comprehensive plan and land use regulations for airports consistent with the requirements of this division and ORS 836.600 through 836.630. Local comprehensive plan and land use regulation requirements shall be coordinated with acknowledged transportation system plans for the city, county, and Metropolitan Planning Organization (MPO) required by OAR 660, division 12. Local comprehensive plan and land use regulation requirements shall be consistent with adopted elements of the state ASP and shall be coordinated with affected state and federal agencies, local governments, airport sponsors, and special districts. * * *. Local comprehensive plan and land use regulation requirements shall encourage and support the continued operation and vitality of airports consistent with the requirements of ORS 836.600 through 836.630.*

Consistent with OAR 660-013-0030(2), Marion County has already adopted comprehensive plan and land use requirements for the Aurora Airport and the airspace at issue consistent with the airport planning rule and ORS 836.600 through 836.630. Those standards from, in part, the AO approval criteria for this application. The County has also adopted the 1976 Aurora Airport Master Plan which governs compatible uses of the subject property *visa vi* the airport. Neither need to be adjusted to accommodate the proposal. The proposal is consistent with this provision.

28. *OAR 660-013-0040 Aviation Facility Planning Requirements*

A local government shall adopt comprehensive plan and land use regulation requirements for each state or local aviation facility subject to the requirements of ORS 836.610(1). Planning requirements for airports identified in ORS 836.610(1) shall include:

(1) A map, adopted by the local government, showing the location of the airport boundary. The airport boundary shall include the following areas, but does not necessarily include all land within the airport ownership:

(a) Existing and planned runways, taxiways, aircraft storage (excluding aircraft storage accessory to residential airpark type development), maintenance, sales, and repair facilities;

(b) Areas needed for existing and planned airport operations; and

(c) Areas at non-towered airports needed for existing and planned airport uses that:

- (A) Require a location on or adjacent to the airport property;*
- (B) Are compatible with existing and planned land uses surrounding the airport; and*
- (C) Are otherwise consistent with provisions of the acknowledged comprehensive plan, land use regulations, and any applicable statewide planning goals.*
- (d) "Compatible," as used in this rule, is not intended as an absolute term meaning no interference or adverse impacts of any type with surrounding land uses.*
- (2) A map or description of the location of existing and planned runways, taxiways, aprons, tiedown areas, and navigational aids;*
- (3) A map or description of the general location of existing and planned buildings and facilities;*
- (4) A projection of aeronautical facility and service needs;*
- (5) Provisions for airport uses not currently located at the airport or expansion of existing airport uses:*
 - (a) Based on the projected needs for such uses over the planning period;*
 - (b) Based on economic and use forecasts supported by market data;*
 - (c) When such uses can be supported by adequate types and levels of public facilities and services and transportation facilities or systems authorized by applicable statewide planning goals;*
 - (d) When such uses can be sited in a manner that does not create a hazard for aircraft operations; and*
 - (e) When the uses can be sited in a manner that is:*
 - (A) Compatible with existing and planned land uses surrounding the airport; and*
 - (B) Consistent with applicable provisions of the acknowledged comprehensive plan, land use regulations, and any applicable statewide planning goals.*
- (6) When compatibility issues arise, the decision maker shall take reasonable steps to eliminate or minimize the incompatibility through location, design, or conditions. A decision on compatibility pursuant to this rule shall further the policy in ORS 836.600.*
- (7) A description of the types and levels of public facilities and services necessary to support development located at or planned for the airport including transportation facilities and services. Provision of public facilities and services and transportation facilities or systems shall be consistent with applicable state and local planning requirements.*
- (8) Maps delineating the location of safety zones, compatibility zones, and existing noise impact boundaries that are identified pursuant to OAR 340, division 35.*

(9) Local government shall request the airport sponsor to provide the economic and use forecast information required by this rule. The economic and use forecast information submitted by the sponsor shall be subject to local government review, modification and approval as part of the planning process outlined in this rule. Where the sponsor declines to provide such information, the local government may limit the airport boundary to areas currently devoted to airport uses described in OAR 660-013-0100.

Because this proposal is for an expansion of the airport boundary to allow airport uses, many of the materials required by this standard already exist to a large extent, such as the existing and planned airport facilities within the present airport boundary and will be referred to in the following responses.

The Oregon Court of Appeals in *Schaefer v. Marion County* held that “an expansion of a public use airport occurs when, pursuant to OAR chapter 660, division 13, a local government adopts a map showing an airport boundary that includes a larger area than the boundary shown on the previously adopted map of the airport.” 318 Or App at 619-20.

The airport boundary map cited in the quote is the map identified under OAR 660-013-0040(1).

Applicant has submitted maps showing both the present airport boundary, consistent with the Court of Appeals description of the Aurora State Airport boundary, as well as the proposed expanded airport boundary to include the subject property. (Proposed Airport Boundary Map, updated version presented at the March 6, 2025 hearing). The map shows the areas that are proposed to be used for all of the facilities, structures and uses identified at OAR 660-013-0040(1)(a) through (c). Other maps, discussed below, identify the existing and planned facilities and structures.

The hearings officer recommends that Marion County adopt the submitted Exhibit 1A airport boundary map submitted for the March 6, 2025 hearing and incorporate it into the Marion County Comprehensive Plan as part of the Transportation Plan to supplement the other adopted Aurora State Airport documents.

Applicant has also submitted a site plan that shows the proposed development on the vacant subject property, to include the planned rotorcraft takeoff and landing area, on-site taxiways, the connection to the adjacent taxiway to the Aurora State Airport’s runway, aprons, tiedown areas, navigational aids, and planned buildings and facilities to include power stations for eVTOLs and electric-powered fixed-wing aircraft. *See* Exhibit 1. This site plan, together with Exhibits 1B, 2, and 2A, fulfills the requirements of OAR 660-013-0040(2) and (3).

As with the airport boundary map, the hearings officer recommends that Marion County adopt and incorporate these plans at Exhibit 1 as updated at the March 6, 2025 hearing, into the Comprehensive Plan. These plans, along with the expanded airport boundary map, will supplement the existing Aurora State Airport Master Plan and ALP already incorporated into the Comprehensive Plan, to give a full planning picture of the development of the Airport.

OAR 660-013-0040(4) requires a projection of aeronautical facility and service needs. Consistent with OAR 660-013-0040(9), ODAV has advised that the information to be used for that projection is that which is contained in the current version of the current master plan update which is in the

record at Application Exhibits 7-10 and also Applicant's Post Hearing Submittal Exhibit 6, and Unmarked Applicant Exhibit submitted 4.10.25 containing the most recent ODAV ALP, and see Applicant's Post Hearing Submittal Exhibit 5 (Oregon State Airports Manager Tony Beach stating "the economic and forecast information in the recent UAO draft master plan is the most up to date."

The Oregon Department of Aviation Director provided a letter in support of the proposal to include advising that it helps the state to meet a state aviation need. (Exhibit 4) Applicant also supplemented the information from ODAV with additional market-based evidence regarding aeronautical facility and service needs that will arise within the next 5 years and continue to grow throughout the planning period for the Aurora State Airport that ends in 2041.

The ODAV supplied materials anticipate a growth in helicopter (rotorcraft) based aircraft and operations at the airport in the period between 2021 and 2041. (Exhibit 7) The present draft ODAV airport planning at the airport focuses on the ODAV-owned property. The preliminary alternatives study of the landside needs at the Airport, prepared by ODAV, explains that, "Aurora State Airport is located on a constrained site and as such, it may not be possible to fully address every facility requirement." (Exhibit 9) None of the three landside alternatives that ODAV considered by ODAV show any meaningful amount of additional helicopter facilities.

To supplement ODAV's analysis, Applicant submitted letters from Columbia Helicopter and Life Flight that express interest in expanding their operations to the subject property to serve their demand for more facilities to accommodate rotorcraft operations. (Exhibits 26, 27)

Neither the ODAV economic and use forecast information nor the Draft AMP estimate the facility needs that will arise from emerging aeronautical technologies such as electric-powered fixed-wing aircraft and electric helicopter/eVTOL aircraft. FAA Advisory Circular (AC) 150/5070-6B Change 2 Airport Master Plans (1/27/2015) mandates that airport planners consider emerging trends and accommodate future demand for evolving technologies in the aviation industry. (Exhibit 55) The materials submitted by the Applicant, as well as ODAV Director's letter, demonstrate that electric-powered aircraft are a reality and that new eVTOL aircraft will be increasingly entering the market between 2025 and 2028, and are anticipated to become mainstream by 2030, with extensive growth thereafter. (Exhibits 51, 53 and 63)

The evidence in the record demonstrates that the aeronautical and service needs at the Aurora State Airport continue to grow and evolve, and that there is a particular need for increased rotorcraft facilities and facilities to provide power to and maintain and repair the burgeoning electric aircraft market, both fixed-wing aircraft (eVTOLs) and electric helicopter/eVTOLs. Furthermore, to maximize meeting identified existing and near-future needs, the application is seeking approval for full development of the site with the proposed airport uses. The proposal is consistent with OAR 660-013-0040(4).

Within the proposed expanded airport boundary, Applicant proposes providing airport uses and facilities either not currently located at the airport or projected as needed that cannot be met within the existing airport boundary within the planning period. OAR 660-013-0040(5). The proposed airport uses and facilities concentrate on providing facilities for present and near-future rotorcraft needs and eVTOL and electric airplane needs, which will grow in the coming years. To address these needs, the proposal includes charging stations for eVTOLs and electric fixed-wing aircraft as well as on-site capacity to address peak demand periods for electricity, a landing pad for

eVTOLs and other rotorcraft, tiedown areas and hangar areas for all types of aircraft and operations and maintenance facilities for aircraft on the subject property. OAR 660-013-0040(5)(a) and (b).

Applicant provided evidence to establish that proposed uses can be supported by adequate types and levels of public facilities and services, to include transportation facilities, consistent with applicable statewide planning goals. (Exhibits 36, 37, 39, 42, 43) OAR 660-013-0040(5)(c).

The evidence in the record and the analysis and findings provided under the conditional use standards demonstrates that proposed rotorcraft or fixed-wing aircraft operations on the subject property will not create a hazard for existing aircraft operations at the Airport. The ODAV and FAA review and approval of proposed operations from the subject property will confirm that this air traffic safety requirement is met before any operations take place. OAR 660-013-0040(5)(d).

The findings for the conditional use standards above as well as the additional findings of compliance with comprehensive plan, Statewide Planning Goals and other applicable land use regulations demonstrate that the proposal is compatible with existing and planned uses surrounding the airport expansion and is consistent with other applicable land use regulations. OAR 660-013-0040(5)(e).

The analysis provided under the conditional use standards above demonstrates that there are no unaddressed compatibility issues. Compatibility concerns that were raised during the proceedings, like noise, and inciting terrorist activity have been addressed by Applicant in these findings.

The proposal can and will operate within the 55 dBL noise contour under which the Snyders built their home and there is no reason to think that the proposal will incite terrorists or otherwise be unsafe. It is merely the addition of airport related uses of the type that the County plan has envisioned for the subject property since 1976 from the adoption and DLCD's acknowledgement of the Aurora Airport 1976 Airport Master Plan. However, if there are impacts that the County decides should be addressed that have not been (something not anticipated), then subsection (6) requires the county decision maker to take reasonable steps to minimize or eliminate the incompatibility through location, design or conditions.

The application materials identify and describe the types and levels of public facilities and services needed for the proposed airport expansion and airport uses as required by subsection (7). (Exhibits 40, 41, 45 and 46) These application materials demonstrate that such facilities and services are feasible and such systems are consistent with applicable state and local planning requirements.

Applicant submitted an imaginary surfaces diagram delineating the location of safety zones and compatibility zones for the rotorcraft takeoff and landing pad located on the subject property, pursuant to OAR chapter 340, division 35, as required by subsection (8). Application Exhibit 1; *see also* Application Exhibit 61 (Exhibits for OAR Chapter 660 division 13 Airport Zone Standards (diagrams showing overlay zones)). A condition of approval requires Applicant to submit to the County a clean copy of that diagram. Applicant has also prepared and submitted a noise impact boundaries map consistent with the DEQ rule as part of the submitted noise impact study. Application Exhibit 35. As also conditioned below, the Applicant is required to provide the County a DEQ approved Noise Impact Boundary Diagram, and if required by the DEQ, an approved Airport Noise Abatement Program as required by this subsection.

Consistent with subsection (9), the Applicant has requested and received from ODAV, as the Aurora State Airport sponsor, economic and use forecast information as required by the Airport Planning Rule and as Applicant's Post Hearing Submittal Exhibit 5 demonstrates, that information is contained in the draft master plan update that is in the record (contained in the current version of the current master plan update which is in the record at Application Exhibits 7-10 and also Applicant's Post Hearing Submittal Exhibit 6, and Unmarked Applicant Exhibit submitted 4.10.25 containing the most recent ODAV ALP), and well as the ODAV Director's Letter in the record at Applicant's April 10, 2025 Exhibit 4.

The proposal is consistent with this standard.

29. *OAR 660-013-0050 Implementation of Local Airport Planning*

A local government with planning responsibility for one or more airports or areas within safety zones or compatibility zones described in this division or subject to requirements identified in ORS 836.608 shall adopt land use regulations to carry out the requirements of this division, or applicable requirements of ORS 836.608, consistent with the applicable elements of the adopted state ASP and applicable statewide planning requirements.

Marion County has adopted land use regulations to carry out the identified state and administrative rule requirements that are consistent with the adopted state ASP and applicable statewide planning requirements. The County has adopted into its acknowledged Comprehensive Plan the 1976 Aurora Airport Master Plan which identifies the subject property for airport-related uses under private ownership on its ALP and identifies the subject property on the Aurora State Airport Land Use Plan as "Airport Development." Exhibit 6, p 40 and 50. The County has already complied with this standard.

30. *OAR 660-013-0070 Local Government Safety Zones for Imaginary Surfaces*

(1) A local government shall adopt an Airport Safety Overlay Zone to promote aviation safety by prohibiting structures, trees, and other objects of natural growth from penetrating airport imaginary surfaces.

(a) The overlay zone for public use airports shall be based on Exhibit 1 incorporated herein by reference.

(b) The overlay zone for airports described in ORS 836.608(2) shall be based on Exhibit 2 incorporated herein by reference.

(c) The overlay zone for heliports shall be based on Exhibit 3 incorporated herein by reference.

(2) For areas in the safety overlay zone, but outside the approach and transition surface, where the terrain is at higher elevations than the airport runway surface such that existing structures and planned development exceed the height requirements of this rule, a local government may authorize structures up to 35 feet in height. A local government may adopt other height exceptions or approve a height variance when supported by the airport sponsor, the Oregon Department of Aviation, and the FAA.

Marion County has adopted the AO Airport Overlay zone consistent with OAR 660-013-0070 and applied it to the existing Aurora State Airport area. The evidence in the record and the findings above demonstrate that the proposal complies with those existing standards because any area that would require the application of the AO Airport Overlay zone as a result of the proposed rotorcraft uses within the expanded airport boundary already have the AO Airport Overlay zone applied to them. The analysis demonstrating this in the findings for the AO Airport Overlay Zone standards above is herein incorporated. Applicant submitted a map for the proposed rotorcraft uses within the expanded airport boundary that complies with OAR 660-013-0070(1)(c). (Exhibit 2) No new properties will be required to have the AO Airport Overlay zone applied as a result of this application being approved. The proposal is consistent with this requirement. The surrounding terrain is relatively flat and does not present any context under which subsection (2) might apply.

31. *OAR 660-013-0080. Local Government Land Use Compatibility Requirements for Public Use Airports*

(1) A local government shall adopt airport compatibility requirements for each public use airport identified in ORS 836.610(1). The requirements shall:

(a) Prohibit new residential development and public assembly uses within the Runway Protection Zone (RPZ) identified in Exhibit 4;

(b) Limit the establishment of uses identified in Exhibit 5 within a noise impact boundary that has been identified pursuant to OAR 340, division 35 consistent with the levels identified in Exhibit 5;

(c) Prohibit the siting of new industrial uses and the expansion of existing industrial uses where either, as a part of regular operations, would cause emissions of smoke, dust, or steam that would obscure visibility within airport approach corridors;

(d) Limit outdoor lighting for new industrial, commercial, or recreational uses or the expansion of such uses to prevent light from projecting directly onto an existing runway or taxiway or into existing airport approach corridors except where necessary for safe and convenient air travel;

(e) Coordinate the review of all radio, radiotelephone, and television transmission facilities and electrical transmission lines with the Oregon Department of Aviation;

(f) Regulate water impoundments consistent with the requirements of ORS 836.623(2) through (6); and

(g) Prohibit the establishment of new landfills near airports, consistent with Department of Environmental Quality (DEQ) rules.

(2) A local government may adopt more stringent regulations than the minimum requirements in section (1)(a) through (e) and (g) based on the requirements of ORS 836.623(1).

Marion County has complied with the requirements of OAR 660-013-0080 through the adoption of MCC Chapter 17.177 Airport Overlay Zone, which addresses each of these requirements. Given

that the subject property is adjacent to and will be incorporated into the Aurora State Airport Boundary, the AO overlay zone does not need to be applied to any new land within the County. Implementation of MCC Chapter 17.177 to applications proposing development in close proximity to the proposed rotorcraft take-off and landing pad within the expanded airport boundary will be based, in part, on the various relevant maps and diagrams submitted as part of this application proposal and approved by the County. As noted above, conditions of approval require the Applicant to submit a clean copy of the submitted imaginary surfaces diagram and, following DEQ approval, a copy of the Noise Impact Boundary Diagram and, if required, approved Noise Abatement Program. The proposal complies with this requirement.

32. *OAR 660-013-0100 Airport Uses at Non-Towered Airports*

Local government shall adopt land use regulations for areas within the airport boundary of non-towered airports identified in ORS 836.610(1) that authorize the following uses and activities:

(1) Customary and usual aviation-related activities including but not limited to takeoffs, landings, aircraft hangars, tiedowns, construction and maintenance of airport facilities, fixed-base operator facilities, a residence for an airport caretaker or security officer, and other activities incidental to the normal operation of an airport. Residential, commercial, industrial, manufacturing, and other uses, except as provided in this rule, are not customary and usual aviation-related activities and may only be authorized pursuant to OAR 660-013-0110.

(2) Emergency Medical Flight Services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. "Emergency Medical Flight Services" does not include hospitals, medical offices, medical labs, medical equipment sales, and similar uses.

(3) Law Enforcement and Firefighting Activities, including aircraft and ground based activities, facilities and accessory structures necessary to support federal, state or local law enforcement and land management agencies engaged in law enforcement or firefighting activities. These activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(4) Flight Instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. "Flight Instruction" does not include schools for flight attendants, ticket agents, or similar personnel.

(5) Aircraft Service, Maintenance and Training, including activities, facilities, and accessory structures provided to teach aircraft service and maintenance skills, maintain, service and repair aircraft and aircraft components, but not including activities, structures, and facilities for the manufacturing of aircraft for sale to the public or the manufacturing of aircraft related products for sale to the public. "Aircraft Service, Maintenance and Training" includes the construction of aircraft and aircraft components for personal use. The assembly of aircraft and aircraft components is allowed as part of servicing, maintaining, or repairing aircraft and aircraft components.

(6) Aircraft Rental, including activities, facilities, and accessory structures that support the provision of aircraft for rent or lease to the public.

(7) Aircraft Sales and the sale of aeronautic equipment and supplies, including activities, facilities, and accessory structures for the storage, display, demonstration and sale of aircraft and aeronautic equipment and supplies to the public.

(8) Aeronautic Recreational and Sporting Activities, including activities, facilities and accessory structures at airports that support recreational use of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic Recreation and Sporting Activities on airport property shall be subject to approval of the airport sponsor. Aeronautic recreation and sporting activities include but are not limited to: fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used in this rule, parachuting and parachute drops includes all forms of skydiving. Parachuting businesses may be allowed only where they have secured approval to use a drop zone that is at least 10 contiguous acres. A local government may establish a larger size for the required drop zone where evidence of missed landings and dropped equipment supports the need for the larger area. The configuration of 10 acre minimum drop zone shall roughly approximate a square or circle and may contain structures, trees, or other obstacles if the remainder of the drop zone provides adequate areas for parachutists to safely land.

(9) Crop Dusting Activities, including activities, facilities and structures accessory to crop dusting operations. These include, but are not limited to: aerial application of chemicals, seed, fertilizer, pesticide, defoliant and other activities and chemicals used in a commercial agricultural, forestry or rangeland management setting.

(10) Agricultural and Forestry Activities, including activities, facilities and accessory structures that qualify as a “farm use” as defined in ORS 215.203 or “farming practice” as defined in ORS 30.930.

(11) Air passenger and air freight services and facilities at public use airports at levels consistent with the classification and needs identified in the state ASP.

The proposed airport expansion is for a “non-towered airport” as defined by OAR 660-013-0020(4). *See also, Schaefer v. Marion County*, 318 Or App at 625 n 8 (concluding, “For purposes of the rule, the Aurora State Airport is a non-towered airport.”).

The proposed uses within the proposed expanded airport boundary consists only of uses expressly allowed under OAR 660-013-100 as detailed above in Section 1 under the subheading “Proposed Airport Uses Within the Airport Boundary.” These include: customary and usual aviation-related activities including but not limited to takeoffs, landings, aircraft hangars, tiedowns, construction and maintenance of airport facilities, fixed-base operator facilities and activities incidental to the normal operation of the airport related uses on the property (subsection (1)); emergency medical flight services as described in subsection (2); firefighting activities and law enforcement activities as described in subsection (3); flight instruction and training (subsection (4)); aircraft service maintenance and training (subsection (5)); (6) aircraft rental (subsection (subsection (6))), aircraft sales, sales of aeronautical equipment and supplies (subsection (7)), forestry and agricultural related activities, to include crop dusting as prescribed in subsections (9) and (10). Each of the uses described in Section 1 above fall into one or more of the above categories of permitted airport uses.

The proposal does not include any residential, commercial, industrial, manufacturing or uses other than described above.

The proposal complies with this standard.

33. *OAR 660-013-0110 Other Uses Within the Airport Boundary*

Notwithstanding the provisions of OAR 660-013-0100, a local government may authorize commercial, industrial, manufacturing and other uses in addition to those listed in OAR 660-013-0100 within the airport boundary where such uses are consistent with applicable provisions of the acknowledged comprehensive plan, statewide planning goals and LCDC administrative rules and where the uses do not create a safety hazard or otherwise limit approved airport uses.

Applicant does not request local government authorization of commercial, industrial, manufacturing or other uses not identified as permitted under OAR 660-013-0100 as an airport use. Any future request for uses that are not airport uses described in OAR 660-013-0100 will require a land use application requesting those uses and approval by the county. The proposal is consistent with this standard.

34. *OAR 660-013-0140 Safe Harbors*

A “safe harbor” is a course of action that satisfies certain requirements of this division. Local governments may follow safe harbor requirements rather than addressing certain requirements in these rules. The following are considered to be “safe harbors”:

The proposal does not seek any safe harbors. The proposal is consistent with this standard.

35. *OAR 660-013-0155 Planning Requirements for Small Airports*

(1) Airports described in ORS 836.608(2) shall be subject to the planning and zoning requirements described in ORS 836.608(2) through (6) and (8).

(2) The provisions of OAR 660-013-0100 shall be used in conjunction with ORS 836.608 to determine appropriate types of uses authorized within airport boundaries for airports described in 836.608(2).

(3) The provisions of OAR 660-013-0070(1)(b) shall be used to protect approach corridors at airports described in ORS 836.608(2).

(4) Airport boundaries for airports described in ORS 836.608(2) shall be adopted by local government pursuant to the requirements in ORS 836.608(2).

The Aurora State Airport is not an airport described in ORS 836.608(2); it is a public airport described in ORS 836.610(1). By its express terms, this standard does not pertain to the application.

36. *OAR 660-013-0160 Applicability*

This division applies as follows:

(1) Local government plans and land use regulations shall be updated to conform to this division at periodic review, except for provisions of chapter 859, OR Laws 1997 that became effective on passage. Prior to the adoption of the list of airports required by ORS 836.610(3), a local government shall be required to include a periodic review work task to comply with this division. However, the periodic review work task shall not begin prior to the Oregon Department of Aviation's adoption of the list of airports required by ORS 836.610(3). For airports affecting more than one local government, applicable requirements of this division shall be included in a coordinated work program developed for all affected local governments concurrent with the timing of periodic review for the jurisdiction with the most land area devoted to airport uses.

(2) Amendments to plan and land use regulations may be accomplished through plan amendment requirements of ORS 197.610 to 197.625 in advance of periodic review where such amendments include coordination with and adoption by all local governments with responsibility for areas of the airport subject to the requirements of this division.

(3) Compliance with the requirements of this division shall be deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR 660, division 12 related Airport Planning.

(4) Uses authorized by this division shall comply with all applicable requirements of other laws.

(5) Notwithstanding the provisions of OAR 660-013-0140 amendments to acknowledged comprehensive plans and land use regulations, including map amendments and zone changes, require full compliance with the provisions of this division, except where the requirements of the new regulation or designation are the same as the requirements they replace.

The planning and periodic review requirements of subsections (1) and (2) do not pertain to this application. By addressing the requirements of OAR Chapter 660 division 13, the County is deemed to satisfy the requirements of Statewide Planning Goal 12 (Transportation) and OAR Chapter 660 division 12 related to airport planning as stated by subsection (3).

Subsection (4) requires that uses authorized by OAR Chapter 660 division 13 comply with all applicable requirements of other laws. The approval standards included in these findings represent the applicable land use standards for the proposed airport expansion and airport uses. As discussed in these findings, the proposed airport uses will be required to submit additional applications that pertain to aviation with ODAV and the FAA, and environmental quality with the DEQ, and to receive approvals from those agencies before the proposed uses within the expanded airport boundary are permitted to operate.

The above findings demonstrate that the proposal complies with the provisions of OAR Chapter 660 division 13 as required by subsection (5).

VII. Recommendation

It is hereby found that Applicant has met the burden of proving the applicable standards and criteria for approval of a conditional use to expand an existing airport to allow a vertical takeoff and

landing facility for aircrafts and a comprehensive plan amendment to amend the airport plan on a 16.54 acre parcel in an EFU (Exclusive Farm Use) zone located at 22515 Airport Rd. NE, Aurora. Therefore, the hearings officer recommends the Marion County Board of Commissioners **GRANT** the conditional use and comprehensive plan amendment, subject to the conditions set forth below. The conditions are necessary for the public health, safety and welfare.

Conditions of Approval

1. Applicant shall obtain any building and septic permits required.
2. Applicant shall submit evidence of compliance with all required agencies to planning staff.
3. Prior to building permit issuance, design rural type frontage improvements along the Airport Road subject property frontage that are anticipated to include a new access, removing prior existing accesses, vegetation clearing, 5-foot gravel road shoulder, proper foreslope and drainage ditch relocation, and obtain a Major Construction Permit for same. Prior to issuance of a Building Department Certificate of Occupancy, acquire final inspection approval of the public roadway related improvements.
4. Prior to building permit issuance, contribute a proportional share in the amount of \$24,000 as presented in the February 2024 TIS Update toward the cost of planning, designing, and constructing signalization and turn lane improvements at the intersection of Ehlen Road and Airport Road as identified in the County RSTP and in the City of Aurora TSP, as a traffic mitigation measure.
5. The MCC 117.119.180 effective date for the start of the MCC 117.119.190 2-year period for exercising a conditional use right shall be the latter of: (1) the date of the final order or decision by the County, LUBA, the Court of Appeals or the Oregon Supreme Court, beyond which there can be no further appeals and this land use decision become final; (2) the date the ODAV site approval decision become final following any administrative and judicial appeals, if any; or (3) the date the DEQ noise plan decision becomes final following any administrative or judicial appeals. If this local decision and the ODAV site approval decision and the DEQ decision are not appealed, the effective date for the start of the MCC 117.119.190 2-year period for exercising the conditional use right begins on the latest of the three approval dates.
6. The uses allowed on the subject property are limited to airport uses identified under ORS 836.616(2) and OAR 660-013-0100 as uses that shall be authorized within airport boundaries and as shown on the submitted site plan Exhibit 1B and described in the application materials. Uses not listed under the statute or rule, or expansion of the approved uses or development must be approved through a separate land use application.
7. Applicant will supply to the County clean copies of the airport boundary map (Exhibit 1A) and other maps required by OAR 660-013-0040 to be incorporated into the Marion County Comprehensive Plan.

8. Prior to the issuance of any building permit, Applicant shall provide to the County consistent with the requirements set forth under OAR 340-035-0045, a DEQ approved Noise Impact Boundary Diagram and, if required by DEQ, an approved Airport Noise Abatement Program for the uses authorized within the expanded airport boundary. All development and operations on the subject property must conform to the DEQ Noise Impact approval.
9. Prior to the issuance of any building permit for stormwater or wastewater facilities on the subject property, Applicant will provide a copy of the DEQ approvals for the requested system.
10. Applicant must submit a facility site plan for the proposed airport uses as required by OAR 738-014-0050 for Through the Fence Operations and receive approval from the Oregon Department of Aviation of the proposed site plan prior to applying for a building permit to develop the approved airport uses.
11. Applicant must submit to the County a written contract with ODAV, the Aurora State Airport sponsor, that meets the requirements of OAR 738-014-0050(3) before airport operations on the subject property begin.
12. Prior to the construction or establishment of the proposed vertical takeoff and landing facility, the applicant must submit an application for approval of the airport site to ODAV, as described in Oregon Revised Statutes (ORS) 836.090.
13. Prior to the construction or establishment of the proposed facility, the application fee must be paid to ODAV, as described in ORS 836.085.
14. The proposed development must adhere to the approval criteria for the establishment of an airport as described in ORS 836.095 and OAR 738-020 (Minimum Standards for Airports).
15. In accordance with FAR Part 77.9 and OAR 738-070-0060, the proposed development is required to undergo aeronautical evaluations by the FAA and ODAV. The aeronautical evaluations are initiated by the applicant providing separate notices to both the FAA and ODAV to determine if the proposal poses an obstruction to aviation safety. Applicant should receive the resulting aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.
16. The height of any new structures, trees or planted vegetation shall not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV for the Aurora State Airport. Applicant shall submit to the County a clean copy of the imaginary surfaces diagram for the approved rotorcraft operations on the subject property, prepared consistent with OAR 660 division 13 Exhibit #3.
17. Any proposed external lights shall be designed so as to not interfere with aircraft or airport operations.

18. Any proposed external lights shall be designed so as to not interfere with any adjacent uses.
19. Prior to any airport operations on the subject property, Applicant shall apply for and receive required ODAV or FAA licenses or approvals for such operations.
20. Connection to either the HDSE or Columbia Helicopters wastewater systems, while approved by this decision, is not authorized until such properties and uses obtain final land use approvals that permit those facilities to serve other parcels such as the subject property. If either HDSE or Columbia Helicopters obtain the necessary land use approvals, the subject property is authorized by this decision to connect to the wastewater system without the need to obtain additional land use approvals to allow such connection.

VIII. 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 this 20th day of May, 2025.


Jill F. Foster
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, that said copies were deposited in the United States Post Office at Salem, Oregon, on the 20th day of May, 2025 and that the postage thereon was prepaid.



Administrative Assistant to the
Hearings Officer