

**TLM Holdings, LLC – North Marion County Vertiport
Supplemental Applicant’s Proposed Findings**

A. Conditional Use Standards (supplemental)

MCC Chapter 17.136.060 Conditional Use Review Criteria provides the conditional use criteria for uses identified in MCC 17.136.050, which includes the proposed vertiport allowed under MCC 17.136.050(J)(4). The applicable standards are those provided under MCC 17.136.060(A).¹

A. The following criteria apply to all conditional uses in the EFU zone:

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.

Proposed Finding: The proposed vertiport 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, as demonstrated by the fact that the near-by farms have operated without significant impacts from the existing airport and helicopter-based operations for decades.

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 only farmland in the area is that to the east of the subject property, across from Airport Road. There, six large parcels are engaged in farming activity, growing hay or grass seed. Each of these properties are encumbered by the County’s AO Airport Overlay zone (*see*, Exhibit 11), which imposes certain restrictions on those properties unrelated to the proposed vertiport. The accepted

¹ Most of the other conditional use criteria identify specific uses they apply to. MCC 17.136.060(I) does not, but cites to “those uses identified in MCC 17.136.050.” MCC 17.136.050(J)(4) does not invoke MCC 17.136.060(I). *See*, e.g., MCC 17.136.050(H) and (N) (expressly stating identified uses are subject to MCC 7.136.060(I)).

practices on these farms include the operating of large farm machinery to plant, irrigate and harvest crops.

Given that the proposed vertiport is similar to the rotorcraft uses presently occurring at the Columbia Helicopters and HTS properties, which are also co-existing with these farm uses, the proposed use will be difficult to discern from the existing uses as well as from operations at the Aurora State Airport.

The potential adverse impacts that could flow from the proposal include noise, dust, air, water and transportation impacts.

Noise impacts are discussed in greater detail under subsection 4 below, which is herein incorporated. As discussed elsewhere in this application, vertiports generate noise. However, agricultural uses, such as the farm uses in the vicinity of the subject property, are not noise sensitive uses and the associated agricultural practices are not significantly impacted by rotorcraft operations.² As discussed below, the application mitigates potential noise impacts to farm operations and the cost of farm operations by placing the 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. Any noise impacts from the proposed use cannot be said to be significant or to force a significant change in or significantly increase the cost of accepted farm practices on farms in the area.

Regarding dust, dust impacts will likely be decreased by the development as opposed to the property's current status as undeveloped land. The subject property is currently undeveloped with little vegetation, which can create theoretically at least cause dust in certain weather conditions. The paving of extensive areas of the property, needed for vertiport operations, buildings, and parking, will reduce the potential for dust coming from 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 (*see*, Exhibits 40 and 41), the proposed transportation facility'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

² OAR 340-035-0015, the definition section for Noise Control Regulations provides:

“(38) ‘Noise Sensitive Property’ means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.”

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 a condition that would increase the cost of farm uses.

The final impact of concern relates to traffic. Traffic was discussed in the original proposed findings, which are herein incorporated. In summary, the submitted 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. During the day, the TIA indicates that, at most, the increased traffic from the proposed use will cause a less than 5 second delay when driving half-way around the entire Aurora State Airport. Such a 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.

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.

Proposed Finding: Like the existing adjacent uses which have been established at urban densities outside the City of Aurora's UGB, the proposal will only rely on the County's transportation facilities, the aurora rural Fire Protection District and the Marion County Sheriff for fire protection and rural services. Given the proposal's location adjacent to existing users of these services, the Applicant will be able to receive the benefit of these same services and there is no indication that such services are not already available or cannot be made available when the use is established. The proposal is consistent with this standard.

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.

Proposed Finding: As described in the application introduction, the subject property is fairly level and has had all major vegetation and previous construction removed from the site. There are no mapped or identified significant riparian areas or fish and wildlife areas on the subject property. As the stormwater and wastewater analysis demonstrates (Exhibits 40, 41), there are feasible, effective systems that will protect the watershed, groundwater, and water quality both from the on-site use as well as cumulatively. Those systems will be required to obtain permits to operate and to comply with state and federal standards. The FAA imposes standards for all rotorcraft with respect to exhaust emissions to ensure

there is not a significant adverse impact to air quality. The proposed use complies with this standard.

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

Proposed Finding: This standard refers more generally to “nearby” land uses, which include the airport uses. The surrounding P-zoned properties to the north, west and south are in either airport or airport related uses, which are not noise sensitive and, in fact, are noise intensive uses. See, Exhibit 15 (Aurora State Airport Noise Contours Map). The noise generated by rotorcraft at the proposed transportation facility will be substantially similar to the rotorcraft operations that currently occur on the adjacent property to the south (HTS property) and at Columbia Helicopter. There can be no significant adverse noise impact on those noise intensive uses or to the Aurora State Airport.

Regarding the nearby farm uses to the east of the subject property, as discussed above and elsewhere in the application, normal farming activities are not noise-sensitive uses, which is why farms are commonly found around airports and other air-oriented transportation facilities. There are several residences located along Airport Road on EFU land in the vicinity of the proposed vertiport. For noise impacts, distance is the great mitigator. To help mitigate noise and operational aspects of the transportation facility, Applicant’s site plan (Exhibit 1) locates hangars, structures, and parking (automobile and rotorcraft) between the landing pads where rotorcraft will be taking off and landing and Airport Road. The take-off and landing area on the property is located on the central western portion of the site. This adds distance and noise barriers between the noise generating take-off and landing activities at the transportation facility and the residences and farmlands to the east, making any noise impacts not significant.

The proposal is consistent with this standard.

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.

Proposed Finding: There are no potential water impoundments or significant mineral and aggregate sites identified in the Marion County Comprehensive Plan that are in the vicinity of the subject property. The proposal will not have a significant impact on any of these resources identified in the M CCP. The proposal complies with this standard.