



# ***Marion County*** **OREGON**

## **PUBLIC WORKS**

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**PLANNING**

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### **MEMORANDUM**

**TO:** Marion County Hearings Officer

**FROM:** Marion County Planning Division/Milliman

**SUBJECT:** Zone Change/Comprehensive Plan/Conditional Use  
Case 19-002/TLM Holdings LLC

**DATE:** March 20, 2019

The Marion County Planning Division has reviewed the above-named case and offers the following:

### **FACTS:**

1. The subject property consists of two tax lots containing a total of 16.54 acres designated Primary Agriculture in the Marion County Comprehensive Plan (MCCP) and zoned EFU (EXCLUSIVE FARM USE) in the Marion County Code (MCC).
2. The properties are located approximately 1,365 feet north of the intersection of Keil Road and Airport Road, on the west side of Airport Road, and consist of tax lot 800 and tax lot 900 (T04; R1W; S02D). The larger tax lot contains two dwellings, cabins and other buildings associated with a religious retreat facility, well, and multiple septic systems. The smaller tax lot is unimproved. Neither tax lot is currently assessed as a farm parcel. The property was the subject of Special Exception 77-37 (SE77-37) which approved the parcels in their current configuration. Therefore, the tax lots are considered legal parcels for land use purposes.
3. Surrounding properties to the east are zoned EFU and consist of various-sized parcels in farm use. Property to the north, south, and west is zoned P and in use as the Aurora State Airport.
4. The applicants are requesting to change the Comprehensive Plan designation from Primary Agriculture to Public, to change the zone from EFU (EXCLUSIVE FARM USE) to P (PUBLIC), and for a conditional use to establish airport related commercial and industrial uses on the property.
5. Marion County Public Works Land Development and Engineering Permits (LDEP) requested that the following conditions be included in the land use case:

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

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

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

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

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

LDEP notes the development will be subject to the following engineering requirements and advisories:

“C. The County requires any development having 0.5-acre or more of impervious (hard) surface to provide storm water detention. Acceptable drainage and detention systems must be designed and approved prior to issuance of a building permit. Any such system as required must be constructed and approved by Public Works prior to issuance of a Certificate of Occupancy.

D. The subject property is within the unincorporated area of Marion County and will be assessed Transportation System Development Charges (SDCs) upon application for building permits, per Marion County Ordinance #00-10R.

E. If Stenbock Way is to be used as an access for the subject property; Applicant shall provide evidence of a recorded Declaration of Covenants for Road Maintenance Agreement (RMA) regarding the private easement. Public Works needs to review, approve and sign the

RMA prior to recordation if a recorded RMA does not currently exist. Please contact Public Works Engineering at (503) 584-7714 for details.

F. In accordance with Marion County Rural Transportation System Plan (MCRTSP) Section 10.3.5, Policy #10a the number of access points on Arterial and Major Collector roadways shall be kept to a minimum to reduce the interruption to traffic flow and to promote safety, and per MCC 11.10.070 one access is allowed per lot unless additional accesses are deemed necessary by the director; therefore, one direct access will be allowed to Airport Road approximately at the midway point of the property frontage along Airport Road. It is noted that additional accesses are proposed on the site plan from Stenbock Way as well as internally from the neighboring properties.

G. In accordance with MCC 11.10, driveway permits will be required for any new access or change in use of the existing access to the public right-of-way. The Applicant shall be required to apply for a driveway "Access Permit" and construct any improvements required by the permit. Driveways must meet sight distance, design, spacing, and safety standards.

H. Construction of improvements on the property should not block historical or naturally occurring runoff from adjacent properties. Furthermore, site grading should not impact surrounding properties, roads, or drainage ways in a negative manner.

I. Applicant should contact DEQ to determine if coverage under a 1200-C Construction Stormwater Permit is required.

J. Per the Marion County Rural Transportation System Plan, Airport Road is a Major Collector. Per MCC 17.112.020 a Special Setback of 40 feet measured from the centerline of the street right-of-way applies on Major Collectors, and from which standard zoning setbacks are measured."

Marion County Tax Office provided information on the tax status of the properties.

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

Oregon Department of Aviation (ODA) commented that any development on the property must comply with ODA and Federal Aviation Administration standards for lighting, building height, access agreements and notice of construction activities and recommend the following conditions of approval:

City of Aurora commented that there are concerns about traffic mitigation and road improvements that may be necessary as a result of past development in the area compounded by the proposed zone change and development.

City of Wilsonville commented that there are concerns about traffic mitigation and needed road improvements, stormwater management, potential for adverse effects on agricultural activities in the area if the proposal is approved.

All other contacted agencies contacted either failed to respond or stated no objection to the

proposal at the time this report was written.

In addition to agency comments, comments were received from interested persons at and near the airport. These comments expressed concerns over air traffic, ground traffic, noise, development on high-value soils, stormwater runoff, and whether the criteria for goal exceptions are met.

### **STAFF FINDINGS AND ANALYSIS:**

6. In land use actions of this type, the applicants have the burden of proving all applicable standards and criteria are met. This report will outline the standards and criteria that must be satisfied in order for an approval to be granted. If the applicants supplied argument or evidence to address specific criteria, their response will be summarized.

### **GOAL 14 EXCEPTION:**

7. The applicants are requesting to change the Comprehensive Plan designation from Primary Agriculture to Public and to change the zoning from EFU (Exclusive Farm Use) to P (Public). Land use applications of this nature must be consistent with Statewide Planning Goals. In this specific case, Statewide Planning Goal 3 - Agriculture and Goal 14 – Urbanization, pertain to the proposal and an exception to these goals must be obtained in order for the proposed change to be approved.

The mechanism for not applying a specific goal, in this case the agricultural lands goal and the urbanization goal, is the goal exception process. The process requires specific findings justifying why lands are not available for resource use. There are three types of exceptions that can be made: physically developed, irrevocably committed and reasons. In this instance the applicants indicate that they are requesting a reasons exception to the goals.

8. Goal exceptions are governed by Statewide Planning Goal 2 and implemented by OAR 660-004. Planning and zoning for exception areas is governed by OAR 660-04-018, which states:
  - (1) *Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or portion of a one goal do not relieve a jurisdiction from the remaining goal requirements and to not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.*
  - (4) *Reasons Exceptions:*
    - (a) *When a local government takes an exception under the “Reasons” section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*
    - (b) *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a “Reasons” exception, a*

*new Reasons exception is required.*

9. OAR 660-014-0040 establishes a specific set of criteria for an exception to Goal 14 to permit the establishment of new urban development on undeveloped rural lands:

(1) *As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.*

The property is outside any urban growth boundary on rural land. An exception to Goal 3 is requested, also, as part of this request, but is not required to approve an exception to Goal 14.

(2) *A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.*

The applicants argue that economically, this location next to the airport is under the ownership of the applicant, is situated next to suppliers of goods and services they use, concentrates airport related businesses in one area, and contributes to the economic activity in the region. Staff would also point out that the existing airport is a quasi-urban use, having been found to be an "urban public facility" in *Murray et al. v. Marion County*, 23 OR LUBA 268 (1992). Also, airports tend to be located away from, or on the periphery of, urban land. Therefore, it would not be unusual to find an airport providing a more urban level of development on rural land.

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) *That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;*

The applicant points out that the airport and surrounding property zoned Public was originally intended to be included in the Aurora Comprehensive Plan, but that the city was unable to justify that amount of industrial/commercial land. It also wouldn't be reasonable to extend the existing UGB to the airport because of intervening resource land. Since the business depends on air traffic for its operation, it must be located at an airport. No other rural communities (such as Brooks, Mehama, Labish Village, etc.) have an airport. Adding air traffic to an existing rural community would greatly intensify the use; therefore, development of this use in a rural community would not be practical. Other airports in the local area were also considered, but there is no land available of the size and proximity to a runway that would meet the needs of the applicant.

- (b) *That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:*
- (A) *Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and*
  - (B) *Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

According to the applicant, the amount of land needed for the use includes outdoor storage, parking, and access areas, and also well and septic facilities. Due to the size of the equipment worked on, large structures are also necessary. The proposal includes a conditional use application for four hangar buildings totaling 150,280 square feet in size and three multi-level office/maintenance/shop buildings totaling 120,090 square feet of floor area. The applicant points out that the 2000 Aurora State Airport Master Plan references the need for additional fixed based operators, of which this use would be one. This use would also help provide some of the need for services and aircraft at the airport identified in the master plan. The applicant has provided evidence that the property can be adequately serviced by rural facilities, such as a well and septic system. The rural transportation system should be adequate to handle the additional traffic introduced by the proposed development. The Public zone requires a Traffic Impact Analysis for each new use established at the airport. It can be made a condition of the conditional use portion of this application that the applicant provide evidence that the use will not adversely impact the traffic facilities in the area, or that any impacts can be adequately mitigated.

In addition, staff would point out that the consequences of establishing this use on other undeveloped rural lands could be far more significant than establishing it in proximity to an existing airport. Aurora Airport offers an existing runway for aircraft and roadway surfaces for parking, hanger storage, and access to surrounding roads that other rural lands would not offer. Also, the airport is able to better control aircraft approach patterns and noise having all the aircraft activity concentrated at one location than if it existed on various undeveloped rural parcels. Locating adjacent to the existing airport significantly reduces the environmental, economic, social and energy consequences that would result if this use were established on other undeveloped rural land away from the airport. Since rural services will be able to be adequately established on the property, there should be no impact to water resources. Surrounding landowners will be able to continue the use of their properties, predominately farming, as they have next to the existing airport in the past. The energy savings are significant over locating on other undeveloped rural land. Although the air resource in the area will not necessarily be impacted, the noise from the use may impact surrounding uses. However, since the airport related use of this parcel is next to the existing airport, the noise impacts would be centered at and approaching the airport. The addition of 16.54 acres of land in airport use to the existing 298 acres of airport will result in more aircraft being based at the Aurora Airport and increase the number of takeoffs and landings at the airport. In addition to other development already planned on adjacent properties, and the

planned runway expansion, the impact of noise on neighbors to the airport is already expected to increase somewhat, regardless of development of the subject parcel for airport related uses. The proposal would not be expected to add significantly to the projected 2020 noise profile. The applicant included a Transportation Impact Analysis with the application that was reviewed by Marion County Public Works (LDEP) and Oregon Department of Transportation. LDEP recommended conditions of approval that would mitigate increases in traffic projected to occur as a result of approval of the proposal. In addition, any additional commercial or industrial airport related uses would have to be approved as conditional uses in the Public zone and compatibility with surrounding uses would have to be ensured through that process.

- (c) *That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:*
  - (A) *Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and*
  - (B) *Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.*

Existing cities and service districts will not have to provide services to the newly zoned area. The property may connect to the existing fire suppression district at the airport, but does not have to; it can provide its own fire suppression consistent with the requirements of the Oregon Fire Marshall and Aurora Fire Department. The applicants have provided an analysis of traffic that determines the roadways surrounding the property are adequate to handle additional traffic of uses allowed in the Public zone. The airport has not had a significant impact on the ability of surrounding lands to be farmed since the inception of the airport in 1943. Staff would point out that large parcel, open space uses, such as agricultural uses, surrounding an airport are preferred over more densely populated uses because of safety concerns.

- (d) *That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and*

The property will depend entirely on rural services; no urban facilities will be required.

- (e) *That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.*

Demonstration of the proposed rezoning with the goals and policies of the Marion County Comprehensive Plan will be evaluated later in this report. The applicant points out that the proposal is consistent with the state master plans for the airport.

10. Based on the above discussion, staff determined that the proposal meets the requirements for an exception to Goal 14 and that it would be appropriate to locate this level of urban development at this location.

### GOAL 3 EXCEPTION

11. In addition to meeting the requirements for an exception to Goal 14, the applicant must demonstrate that an exception to Goal 3 is appropriate. The “reasons” exception process is outlined in OAR 660-004-0018 (4), 660-004-0020 (2) and 660-004-0022 (1):

OAR 660-004-0018 (4):

- (a) *When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*
- (b) *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;*

The request is to rezone the property to Public to accommodate airport and airport related uses. It can be made a condition of the zone change that other urban type uses not be permitted without a new goal exception.

#### **660-004-0020 (2)**

- (2) *The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:*
  - (a) *"Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;*

The applicant argues that some of the facts and evidence were already presented as part of the Goal 14 exception.

- (b) *"Areas which do not require a new exception cannot reasonably accommodate the use":*

The applicant argues that the site adjacent to the Aurora Airport features a “unique combination of attributes not found on any other property in the region.” Among these attributes are being located next to an existing airport, being near service and parts providers for the business, being located in an area with a concentration of other airport suppliers to and customers of the business, being located near the resource pool of potential employees of the business, good access to surrounding roads, and access to the airport runway via “through the fence” operations. Also, the proposed location minimizes the impact on residential, commercial or industrial uses that would otherwise experience a significant impact if this use were located in nearby cities or on undeveloped rural land away from the airport.



- (c) *The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception [remainder of section not reproduced in this report].*

Among the other sites analyzed by the applicant to locate this business, was another property adjacent to the airport and already zoned Public. This property is less than five acres in size and is already committed to the construction of two hangars for other uses. Property near McNary Airport in Salem and Hillsboro Airport were considered but parcels large enough for the proposed use are located too far from the airport to be logistically viable. Only the subject property offers the best mix of proximity to the runway, customers, suppliers, and employees necessary for the proposed uses. The proposed location is directed away from surrounding residential uses as much as possible and is buffered from agricultural uses in the area by adjacent roads. Staff notes that, as mentioned in the Goal 14 exception discussion, locating the proposed use elsewhere could have significant impacts on surrounding uses and on energy, environmental, land and other resources. These impacts are minimized by locating the use on this property.

- (d) *"The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts". The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

The applicant argues that the Aurora Airport was established in 1943 and has been compatible with surrounding uses since then. The small amount of expansion should not significantly increase the impact on surrounding land uses or render the airport not compatible with surrounding uses. Portions of the property that are not developed at this time would remain in agricultural use until such time as they are developed, and the appropriate conditional use applications are approved.

Staff would point out that the airport is not always compatible with surrounding uses. Sometimes, agricultural practices, or surrounding water impoundments, attract birds, which pose a severe threat to planes taking off and landing at the airport. Also, use of the airport has impacted residences with the impacts of noise and over flight patterns. While the airport works with pilots to voluntarily reduce their impact on surrounding land uses, there are no regulations the county can enforce regarding flight patterns since air traffic at this airport is regulated by the Federal Aviation Administration. The county does apply an Airport Safety Overlay Zone, which applies safety standards to airspace surrounding and approaching the airport. While the existing airport may not be entirely compatible with surrounding uses, the impact of this additional 16.57 acres should not significantly increase the impact on surrounding uses or render the airport incompatible with surrounding uses.

**660-004-0022 (1)**

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

- (1) *For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:*
- (a) *There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either*
  - (b) *A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*
  - (c) *The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

The applicant, while not addressing these criteria specifically, provides evidence that there is a need for additional airport and airport related uses at the Aurora Airport and that the proposed use is dependent on being located at Aurora Airport, not other exception land, rural land, or land inside cities away from the economic activity at the airport. The applicant addresses the special features and qualities that necessitate the location of the proposed exception site on this property.

- 12. Based on the above discussion, the applicant meets the criteria for a goal exception to Goal 3 - Agricultural Lands on the subject property.
- 13. The applicant provides an analysis of how the other statewide planning goals are met by the proposal, aside from Goals 3 and 14, for which exceptions are taken as part of this application.

**COMPREHENSIVE PLAN AMENDMENT**

- 14. All Comprehensive Plan changes are subject to review by the State Department of Land Conservation and Development (DLCD). The DLCD was notified as required by State Law and has not commented prior to this report being prepared.
- 15. The MCC establishes procedures to be used when considering plan amendments. Plan changes directly involving five or fewer properties will be considered a quasi-judicial amendment. The amendment will be reviewed by the zone change procedures established in the MCC. A plan amendment of this type may be processed simultaneously with a zone change request with the zone change procedure outlined in Chapter 17.123 of the MCC.

16. The MCCP does not contain specific review criteria for plan amendments, however, any amendment must be consistent with its applicable goals and policies. The policies that need to be addressed by applicant include:

*Agricultural Land Policy #2: Maintain primary agricultural lands in the largest areas with large tract to encourage larger scale commercial agricultural production.*

Although the applicant has requested an exception to Goal 3, the applicant points out that the property is not as conducive to farming as other parcels in Marion County. It is 27 acres, smaller than the minimum parcel size in the EFU zone and is bordered by roads on two sides and the airport on one site, not allowing the property to be expanded or easily farmed with another adjacent parcel.

*Agricultural Land Policy #3: Discourage development of non-farm uses on high value farmland and ensure that if such uses are allowed that they do no cause adverse impacts on farm uses.*

As discussed earlier under the Goal 3 and 14 exceptions, the non-farm use of the proposed parcel will not have an adverse impact on surrounding farm uses.

Rural Service Policies:

1. *The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.*
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.*
3. *Only services necessary to accommodate planned rural uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with the rural density and character of the area. These uses would encourage inconsistent development in the adjoining rural area.*
4. *The sizing of public or private service facilities shall be based on maintaining the rural character of the area.*

The applicant has demonstrated that the use would be dependent solely on rural services. Provision of the necessary services to serve the property developed with airport and airport related uses would not encourage development inconsistent with the rural density and character of the area or encourage development of the adjoining rural area. It has already been demonstrated that the proposed use adjacent to the airport is consistent with those airport uses. The Public zone has provisions to ensure that newly proposed uses have adequate transportation and septic facilities in place prior to development.

*Air, Rail, Water, Energy and Pipeline Transportation Policies #1: Airports and airstrips shall be located in areas that are safe for air operations and should be compatible with surrounding uses.*

The applicant argues that the airport has been in operation since 1943 and has proven during that time to be a safe location for an airport. The airport overlay zone is applied to the property and surrounding properties to ensure the continued safe operation of the airport. Surrounding uses

are predominately agricultural operations. The low density development at the airport has ensured it stays reliant on rural services only. The proposal is not for a new airport, but to expand an existing airport operation that has a proven safety record. The proposed expansion would be compatible with surrounding uses, as described elsewhere in this report.

Right-Of-Way Policies #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 property would use existing roadways for access to the parcel.

Economic Development Goals:

- a. *Provision of increased employment opportunities for all residents of the County;*
- b. *Maintenance of a strong agricultural economy;*
- d. *Diversification of the economic base of communities, and expansion of seasonal employment opportunities to year-round status wherever possible;*
- e. *Provision of sufficient areas for future industrial land use;*
- f. *Development of a transportation system for the safe and efficient movement of persons and goods for present needs;*
- g. *Coordination of planning and development of public facilities;*
- h. *Development of a strong tourist economy in appropriate areas;*
- i. *Achievement of a natural resource use pattern that provides for tomorrow's needs, today's needs and the protection of the environment.*

The applicant argues that the economic impacts of the proposed use would further the economic development goals in the Marion County Comprehensive Plan, while not significantly affecting the agricultural economy. The use would augment the existing transportation system by utilizing the airport runway for additional commercial and industrial uses.

17. Based on the above discussion, the proposal is consistent with the applicable goals and policies contained in the Marion County Comprehensive Plan.

**ZONE CHANGE**

18. The applicant identified and addressed zone change criteria outlined in the Marion County Code Chapter 17.123.060. The criteria that apply in this instance are:
  - (a) *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and*
  - (b) *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*
  - (c) *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*
  - (d) *The other lands in the County already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*

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

19. The P (Public) zone is the only zone that implements the Public designation. That this zone and designation is consistent with the goal and policies of the Comprehensive Plan has been demonstrated elsewhere in this report. It has been demonstrated that the proposed use is compatible with surrounding uses and consistent with the pattern of development in the area (adjacent to an existing airport). The property would rely on rural facilities and not require any urban facilities. There are no other lands in Marion County designated Public which are near an airport and could accommodate this use. No other zone implements the Public designation. The proposal meets the criteria for a zone change.

### **CONDITIONAL USE**

20. The applicant also applied for a conditional for airport related commercial and industrial uses in the Public zone. The criteria that apply to this are found in Chapter 119.070 of the Marion County Code:

- (a) *That it has the power to grant the conditional use;*
- (b) *That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;*
- (c) *That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.*

21. The conditional use is dependent on the comprehensive plan change and zone change. Only the Board of Commissioners can grant a comprehensive plan change; therefore, only the Board can grant the conditional use in this case. As has been demonstrated previously, the proposed use is appropriate in the P zone and will be compatible with surrounding uses. It will be determined below whether the proposal meets the criteria for development in the Public zone. Any condition imposed will be necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. The proposal meets the criteria for a conditional use.

### **PUBLIC ZONE**

22. The Public zone contains criteria regarding the scale of commercial uses and property development standards that also must be satisfied by this proposal. The criteria that apply to this are found in MCC Chapter 171.171.040 and 17.171.060:

#### **SCALE OF COMMERCIAL USES:**

- (A) *New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.*
- (B) *Lawfully established commercial uses existing as of the date of adoption of this ordinance may be expanded up to 3,500 square feet of floor area, or an additional*

*25% of the floor area that existed as of the date of adoption of this ordinance, whichever is greater.*

- (C) *Airport related uses located at the Aurora Airport are not subject to the size limitations in (A) and (B) of this section.*
- (D) *Except as established in (B), for a commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan.*

The county has previously taken an exception to Goal 14 to permit development of uses at the Aurora Airport and surrounding land zoned Public to exceed the size limitations in the Public zone. This exception was taken because of the large existing sizes of development at the airport (such as hangars, aircraft storage, aircraft maintenance facilities, etc.). These uses tend to be larger than the size limits because aircraft are large and require large open areas around them for safe storage, repair and operation. No size limits apply to the proposed development consistent with 171.040(C) above.

#### PROPERTY DEVELOPMENT STANDARDS:

- (A) *HEIGHT. No building or structure in a P zone shall exceed 6 stories or 70 feet, provided that buildings or structures shall set back from every street and lot line 1 foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.*
- (B) *FRONT YARD. Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.*
- (C) *SIDE YARDS. Where the side of a lot in a P zone abuts upon the side of a lot in any "R" zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.*
- (D) *REAR YARD. In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.*
- (E) *LOT AREA AND COVERAGE. The minimum requirements in P zones for dwellings shall be 1 acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30% of the lot area.*
- (F) *OPEN STORAGE.*
  - (1) *All yard areas, exclusive of those required to be landscaped as provided in Section 171.060 (G), may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.*
  - (2) *The surface of open storage areas, including automobile and truck parking area shall be paved or graveled and maintained at all times in a dust-free condition.*
- (G) *LANDSCAPING. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use additional landscaping may be required if necessary to make the use compatible with the area.*

- (H) *PERFORMANCE STANDARDS. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.*
- (I) *SEWAGE DISPOSAL. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.*
- (J) *TRAFFIC ANALYSIS. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County Department of Public Works, may be required prior to building permit approval.*

The standards in MCC 17.171.060 (A) through (G) would be applied during the permitting process for any structure on the property and a site plan demonstrating compliance with the standards can be made a condition of any approval. Demonstration of the standards in (H) through (J) can be made a condition of any approval.

## **CONCLUSION**

23. Based on the above discussion, the applicant had demonstrated that exceptions to Goals 3 and 14 should be approved, that other Statewide Land Use Goals are satisfied by the proposal, that the goals and policies contained in the Marion County Comprehensive Plan are met by the proposal, that the criteria for a zone change and conditional use are satisfied, and that the standards in the Public zone can be complied with consistent with conditions of approval. Staff recommends the Hearings Officer recommend approval of the Comprehensive Plan/Zone Change/Conditional Use as described.
24. If the request is approved, the following are recommended conditions for this proposal:
  1. Prior to building permit issuance, design and obtain a Major Construction Permit for rural type frontage improvements along the Airport Road subject property frontage that are anticipated to include vegetation clearing, gravel road shoulder, slope and open system drainage work. Prior to issuance of a Building Department Certificate of Occupancy, construct and acquire final inspection approval of the roadway related improvements.
  2. Prior to building permit issuance, contribute a proportional share of the cost of planning, designing, and constructing the following projects, or as otherwise may be agreed to by the directly affected agencies relative to identified mitigation measures:
    - Signalization and turn lanes on Ehlen Road at the intersection with Airport Road as identified in the City of Aurora TSP.
    - Improvements to the OR551/Ehlen Road intersection, Boones Ferry Road/Ehlen Road intersection, and construction of a new local county road connecting OR551 and Boones Ferry Road as identified in the 2018-2021 Oregon Statewide Transportation Improvement Program under Project Key 18664.

3. Prior to issuance of building permits, the applicant shall provide evidence of compliance with Oregon Department of Environmental Quality standards.
4. Prior to issuance of building permits, the applicant shall provide evidence of an approved fire suppression system by either the State Fire Marshall or Aurora Fire District.
5. Prior to issuance of building permits, the applicant shall provide evidence of adequate on-site sewage disposal.
6. The comprehensive plan/zone change is approved for airport and airport related uses only. All other uses in the Public zone would require a new goal exception and justification for that use.