



STAFF REPORT No. 6

To: Robby Hammond, City Manager

From: Ruth Klein, Senior Planner

Date: August 27, 2026

Subject: Two Appeals of Development Review Approval for Aircraft Hangars
Case File No. APPEAL-001-26 Sky Harbour Barnes et. al.
Case File No. APPEAL-002-26 Sky Harbour Richmond et. al.
Underlying Case File No. DR-044-25 Sky Harbour Hangars

Requested Action:

The Planning Division received testimony during the first record period following the City Council meeting on August 18, 2026. This report transmits that testimony to the City Council for inclusion in the record and consideration by Council.

Materials submitted at the August 18, 2026 hearing were entered into the record at the hearing and are not included in this report.

Background:

On August 18, 2026, the City Council held a public hearing on the two consolidated appeals of the Development Review approval for the Sky Harbour Hangars project. At the close of testimony the Council closed the public hearing and voted to hold the record open for three sequential written record periods before deliberating.

First record period. Through Wednesday, August 26, 2026 at 5:00 p.m. Any person may submit written evidence and argument on any issue in this case.

Second record period. August 26, 2026 at 5:01 p.m. through Tuesday, September 2, 2026 at 5:00 p.m. Submittals are limited to responses to evidence and argument submitted during the first record period.

Third record period. September 3, 2026 through Tuesday, September 9, 2026 at 5:00 p.m. This period is open only to the applicant, who may submit final written argument responding to evidence and argument submitted during the second record period. No new evidence may be submitted during this period.

Planning Division

The record closes on September 9, 2026 at 5:00 p.m.

Next Steps:

Staff will issue a staff report following the close of each record period, transmitting the materials received during that period to the City Council. The October 6, 2026 City Council agenda has been opened in advance so that each staff report is available for review as it is posted.

The City Council will return on Tuesday, October 6, 2026 at 7:00 p.m. for deliberations and a final decision on the appeals. No testimony will be taken at that meeting.

The applicant has extended the 120-day review period deadline for a final decision to October 7, 2026.

Attachments:**A. Staff Testimony**

- Staff Memorandum No. 1 from Ruth Klein, Senior Planner, Planning Division, received August 26, 2026
- Staff Memorandum from Joseph Auth, PE, Transportation Systems Division Manager, received August 26, 2026

B. Appellant and Applicant Testimony

- Email from David Barnes, received August 25, 2026, with attachment
- Email from David Barnes, received August 25, 2026
 - Hillsboro Airport Master Plan, see Attachment D
- Email from David Barnes, received August 26, 2026, with attachment
- Email from Miki Barnes, received August 26, 2026, with attachment
- Email from Brett Hamilton, received August 26, 2026, with attachments
- Email from Andrew Mulkey, Attorney at Law, received August 26, 2026, with attachment
- Email from Miki Barnes, received August 26, 2026, with attachment

C. Testimony Received

- Email from Kelsey Bennett, received August 18, 2026
- Email from Katherine Shields, received August 18, 2026
- Email from Ben Berry, received August 19, 2026
- Email from Rob Cook, received August 19, 2026
- Email from Scott Hewitt, received August 19, 2026
- Email from Britt Holloway Hallquist, received August 19, 2026
- Email from Jake Speed, received August 19, 2026
- Email from Sharon Williams, received August 19, 2026
- Email from Andy Schmitz, received August 20, 2026

- Email from Theresa Baird, received August 21, 2026, with attachments
- Email from Denise Caire, received August 21, 2026, with attachment
- Email from Scott and Mary Hewitt, received August 21, 2026
- Email from Betty Jiang, received August 21, 2026
- Email from Tammy Lefever, received August 21, 2026
- Email from Cynthia Westby, received August 21, 2026
- Email from Julie Appelhans, received August 22, 2026, with attachment
- Email from Dana and Mark Ewert, received August 22, 2026
- Email from Scott Hewitt, received August 22, 2026, with attachment
- Email from Scott Hewitt, received August 22, 2026
- Email from Amanda Miles, received August 22, 2026
- Email from Renee and Jay Swiglo, received August 22, 2026
- Email from Ron Kopald, received August 23, 2026
- Email from Lothar Kress, received August 23, 2026
- Email from Cyrilla Jane Menon, received August 23, 2026
- Email from Andi O'Rourke, received August 23, 2026
- Email from Jackie Shannon Hollis, received August 23, 2026
- Email from Robert Bailey, received August 24, 2026, with attachment
- Email from Randy Kozar, received August 24, 2026
- Email from James Martin, received August 24, 2026
- Email from Babette Reeves, received August 24, 2026, with attachment
- Email from Christian Robertson, received August 21, 2026
- Email from Flemming Andersen, received August 25, 2026, with attachment
- Email from Larry Ehl, received August 25, 2026
- Email from Joe Liebezeit, Bird Alliance of Oregon, received August 25, 2026, with attachment
- Email from James Lubischer, received August 25, 2026, with attachment
- Email from Sachiko Matsunaga and Geoffrey Middlebrook, received August 25, 2026
- Email from Glenn Fee, Tualatin Riverkeepers, received August 26, 2026, with attachment
- Email from Debra Higbee, Sierra Club Oregon Chapter, received August 26, 2026, with attachment
- Email from Deb Nystrom, received August 26, 2026
- Email from Teresa Tse, received August 26, 2026

D. Hillsboro Airport Master Plan

cc:

Sarah Radelet, Strata Land Use Planning
Emily Sandy, Strata Land Use Planning
David Annin, Sky Harbour
Steven P. Hultberg, Radler White Parks & Alexander LLP
Dan Pippenger, Port of Portland
Miki Barnes

Trevor Southard
Linda Howey
Karna Sheth
Blaine Ackley
Helen Krieger
Greg Driscoll
David Barnes
Christopher Bockstahler
Sarah Richmond
Brett Hamilton
Valerie Pratt
Kelsey Bennett
Katherine Shields
Ben Berry
Rob Cook
Scott Hewitt
Britt Holloway Hallquist
Jake Speed
Sharon Williams
Andy Schmitz
Theresa Baird
Denise Caire
Scott and Mary Hewitt
Betty Jiang
Tammy Lefever
Cynthia Westby
Julie Appelhans
Dana and Mark Ewert
Amanda Miles
Renee and Jay Swiglo
Ron Kopald
Lothar Kress
Cyrilla Jane Menon
Andi O'Rourke
Jackie Shannon Hollis
Robert Bailey
Randy Kozar
James Martin
Babette Reeves
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Larry Ehl
Joe Liebezeit, Bird Alliance of Oregon
James Lubischer

Sachiko Matsunaga and Geoffrey Middlebrook

Glenn Fee, Tualatin Riverkeepers

Debra Higbee, Sierra Club Oregon Chapter

Deb Nystrom

Teresa Tse

From: [Ruth Klein](#)
To: [Ruth Klein](#)
Subject: City Staff Memos
Date: Wednesday, August 26, 2026 4:00:23 PM
Attachments: [260826 TRN PLN Memo.pdf](#)
[260826 DR-044-25 Staff Memo No 1 Final.pdf](#)

This transmittal email is to document that these City memorandums were submitted into the record prior to the August 26 5pm deadline.

Ruth Klein | *Senior Planner*

City of Hillsboro | Community Development: Planning Division

503-681-6465

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Memorandum No. 1

To: City Council Appeal Record

From: Ruth Klein, Senior Planner
Ashleigh Dougill, Attorney, City Counsel

Date: August 26, 2026

Subject: Two Appeals of Development Review Approval for Aircraft Hangars
Case File No. APPEAL-001-26 Sky Harbour Barnes et. al.
Case File No. APPEAL-002-26 Sky Harbour Richmond et. al.
Underlying Case File No. DR-044-25 Sky Harbour Hangars

Requested Action:

This memorandum responds to two attorney letters received August 18, 2026. Each issue states a bottom line, what the letters argue, and staff's response. Issues are ordered by the prominence they have had in public testimony, not by code sequence. The letters addressed are:

1. Letter from Andrew Mulkey, Attorney at Law, on behalf of Brett Hamilton, appellant in APPEAL-002-26, dated August 18, 2026, received August 18, 2026, transmitted with a cover email received August 18, 2026.
2. Letter from Carrie A. Richter, Bateman Seidel Miner Blomgren Chellis & Gram, P.C., on behalf of Miki Barnes and David Barnes, appellants in APPEAL-001-26, dated August 18, 2026, received August 18, 2026.

Staff requests that the City Council read this memorandum and incorporate this information into their decision making process.

The Community Development Code is Chapter 12 of the Hillsboro Municipal Code, adopted by Ordinance No. 6094 as amended. It is the sole source of approval standards for this application. Issues outside the scope of CDC review are identified as such.

Issues relating to transportation are addressed in a separate memorandum prepared by Joseph Auth, PE, Transportation Systems Manager.

This memorandum was prepared in consultation with the City Attorney, who has reviewed it and concurs in the analysis.

The Two Misconceptions Underneath Most of These Issues:

Bottom line. The City has no authority over aircraft operations. It does have authority over the leasehold and what happens on it. The lease boundary is the line.

Two prevailing misconceptions that staff heard throughout the hearing and record for this project are (1) the City has authority over aircraft operations and (2) the City can regulate the aircraft beyond movement occurring on the leasehold. This section aims to clarify these two points.

Aircraft operations are regulated by the FAA and the Port of Portland. Aircraft noise is excepted from local regulation by HMC Section 6.24.050.D. The authority to regulate air quality is assigned to DEQ by CDC Section 12.25.280.B.5, and CDC Section 12.01.130.A provides that compliance with state and federal law is determined by the administering agency and shall not be a standard or condition of approval. The CDC sets no standard governing the number, timing, or character of aircraft operations.

Aircraft movement occurring on the leasehold, including taxiing to and from the hangars, positioning, and ground idle, is different. It is an operating characteristic of this development under CDC Section 12.80.040.H.7.d, it occurs because the hangars are there, and it can be conditioned. Movement on the taxiway and runway, takeoffs, landings, and overflight occur whether or not this development is built and are not operating characteristics of it.

That distinction is why Condition 45 exists and why staff recommends the additional condition at the end of this memorandum. It is also the answer to the assertion that staff has read “operating characteristics” out of the code.

Issue 1. Noise, Jet Blast, and the Masonry Wall CDC 12.80.040.H.7.E

Bottom line. The Commission did find impacts insufficiently mitigated as submitted, and imposed Condition 45 to address this. The written order failed to draw this connection between the condition and the findings. The Council’s proposed findings cure that error.

What the letters argue. Mr. Mulkey asserts the Commission found the applicant failed to sufficiently minimize or mitigate negative impacts, and that staff agrees. Both letters assert a six-foot masonry wall cannot mitigate noise or jet blast from engines 24 to 28 feet tall, and that aircraft already visible above a seven-foot fence will be visible above a shorter wall.

Staff response. On the first point, Mr. Mulkey’s premise is correct and staff does not dispute it. The Commission’s May 27, 2026 motion added a finding under Criterion 7.e and imposed Condition 45 to address what that finding identified. Exhibit A to Order No. 8492 carries the condition. Exhibit B does not carry the finding. Staff identified that deficiency in the August 18, 2026 City Council staff report rather than leaving the Council to encounter it at the hearing.

However, Mr. Mulkey’s conclusion does not follow. CDC Section 12.70.120.A authorizes conditions to ensure compliance with approval criteria and to mitigate impacts, and Subsection A.2.b lists screening or fencing among the conditions available on a Type III

application. Read as a whole, the motion approves the application as conditioned to meet an approval criterion. What the order failed to do is state that reasoning in writing. The proposed Criterion 7.e finding before the Council states it.

On the wall, staff previously stated in the staff report, and legal agrees, that aircraft noise may not be mitigated as an operational impact, since aircraft noise is excepted from local regulation by HMC Section 6.24.050.D. However, any noise mitigation that results from a wall is simply a helpful side effect; the purpose of a wall here is to reduce the public view of aircraft and other hangar operations at the site. The applicable approval criterion requires that impacts be sufficiently minimized or mitigated, not eliminated. Therefore, a wall which reduces and mitigates the public's view of the hangars and resulting operation of the hangars sufficiently reduces and mitigates this operational impact.

Site configuration also affects sound at the perimeter. Hangars 4 and 5 are set back farther in places due to the curvature of NE Brookwood Parkway, and the buildings themselves block sound for roughly half the site. Hangars 1 and 2a are farthest from the parkway. Distance combined with the wall provides mitigation of an extent that is unknown.

Height is constrained by code. Fence and wall height in the I-P zone is limited to eight feet under CDC Section 12.50.250. The proposed finding under that section states that the wall does not exceed that maximum and that masonry is not a restricted material in the zone. A barrier at the height Ms. Richter's letter contemplates would require an Adjustment. None is requested and none is before the Council.

Issue 2. Fuel Farm, Vented Fumes and Air Quality

Bottom line. Fire review happens at building permit. Air quality is DEQ's call under CDC 12.25.280.B.5, not the Council's. The record has no vapor analysis because vapor is regulated by DEQ.

What the letters argue. Mr. Mulkey asserts the applicant has not disclosed the chemical makeup, quantity, or harm radius of vented fumes, relying on a Columbia University study of gasoline vapor release at retail fueling stations reporting emission factors more than ten times the estimates behind setback distances. Ms. Richter asserts the safety and containment list is unsupported by expert testimony, that earthquake conditions are unaddressed, and that no fire authority has signed off.

Staff response. Fuel storage is reviewed and permitted by the Oregon State Fire Marshal and the Hillsboro Fire Marshal before installation, at building permit stage, separate from land use review. Section B.9 of the May 4, 2026 memorandum states the fuel farm is designed to comply with NFPA 30 and 30A, UL 142, Factory Mutual approvals, hazardous location electrical classifications, and Steel Tank Institute programs. That is design intent. The record does not document a completed fire authority permit review, because that is completed at the building permit stage. Fire authorities further stated that they do not require any further detail at land use approval, but will require further review prior to issuing building permits. Therefore, staff finds that fire review will occur at a later stage of this project's development.

The fuel farm is comprised of two aboveground tanks of 20,000 gallons each, a 2,714 square foot tank pad and skid area, a 603 square foot load and off-load area, and a 2,360 square foot canopy over the containment area dimensioned on Sheet C.11. Containment drains to the sanitary system through an oil-water separator, not to stormwater. The canopy is a Clean Water Services source control measure and does not enclose the tanks.

Distances in the record are consistent, not conflicting. The library is 538 feet from the closest point of the fuel farm, 620 feet from Hangar 5, and its main entrance is approximately 475 feet from the nearest aircraft ramp area. The figure in Ms. Richter's letter is the fuel farm measurement.

On seismic performance, Sheet C.11 carries loading criteria for the canopy structure only. Structural and fire design of the tanks is a deferred submittal reviewed by the fire authorities and the engineer of record.

On vented fumes, the applicant bears the burden, and where an issue is raised the applicant must either produce responsive evidence or explain why none is required. It has done neither, because DEQ regulates vented fumes. Although staff heard Council's interest in gathering additional information and analysis on vented fumes that may result from this development, and the applicant may choose to voluntarily provide this information, requiring evidence of fume mitigation in connection with this criterion may prove legally indefensible. The cited study measured gasoline at retail stations. The record establishes Jet A as a turbine fuel with a flash point near 100 degrees Fahrenheit and low volatility against roughly negative 45 degrees and very high volatility for gasoline and Avgas 100LL, but does not extend that comparison to vapor emission rates.

Air quality regulation is delegated. CDC Section 12.25.280.B.5, a base zone standard and therefore an approval criterion under CDC Section 12.80.040.H.1, provides: "*Compliance with State Requirements. All Uses or operations shall comply with current State air quality and noise statutes and rules as administered by the Department of Environmental Quality.*" Under CDC Section 12.01.130.A that determination belongs to DEQ and may not be imposed as a condition of approval. Jet A contains no lead; leaded fuel is used in piston aircraft, not the aircraft that would use this facility. The FAA completed a Categorical Exclusion under NEPA finding neither an Environmental Assessment nor an Environmental Impact Statement required.

Issue 3. Operational Intensity and Flight Assumptions

Bottom line. The City cannot cap takeoffs and landings. It can condition ground activity, and staff recommends doing so.

What the letters argue. Ms. Richter asserts the operation is undefined, noting the applicant's presentation described 57 to 80 flights per week while the traffic memorandum assumes 47 flights per day, and proposes a single daily flight assumption to guide the entire Subsection H evaluation. Both letters assert maintenance, refueling, and pre-flight activity generate unaddressed impacts.

Staff response. Aircraft operations are regulated by the FAA and the Port. The CDC establishes no standard governing their number, and the City has no mechanism to limit them. Vehicle trip generation is addressed in the separate memorandum by Joseph Auth.

The 60 percent and 1.1 to 1.5 percent figures appear at Section B.12 of the May 4, 2026 memorandum and the letter states them accurately. The conflict between 57 to 80 flights per week and 47 flights per day is not reconciled anywhere in the record.

Ground activity is a different matter. Section B.11 of the May 4, 2026 memorandum states that no on-site maintenance requiring revving of engines will occur. That is a representation, not an obligation. Staff recommends the condition at the end of this memorandum to make it enforceable.

Whether a single daily flight assumption should be adopted, and whether the Council may condition approval on one, are questions for the Council with the advice of the City Attorney.

Issue 4. Federal Preemption and the Scope of City Authority

Bottom line. The City is not disclaiming authority it holds. It is drawing the line at the lease boundary, which is where its authority ends.

What the letters argue. Richter asserts the preemption argument has no support in the CDC beyond the HMC 6.24 noise exception, that concurrent federal review does not by itself preempt local standards, that ORS 836.623(1) authorizes local airport compatibility requirements, and that federal jurisdiction over aircraft in flight does not reach ground activities such as pre-flight testing, run-ups, and maintenance.

Staff response. Staff agrees with the last of those points, and it is the basis for the recommended condition. Ground activity on the leasehold is within the City's reach and is conditioned accordingly. Condition 45 and the recommended run-up condition are both exercises of that authority, addressed to the physical development and its on-site operating characteristics rather than to aircraft operations.

Condition 45 is not an exercise of authority over aircraft noise, and the City could not impose a condition regulating aircraft noise. The exception at HMC Section 6.24.050.D applies to the Council and to the Planning Commission alike.

Issue 5. Compatibility and the Hillsboro Brookwood Library, CDC 12.80.040.H.7.D

Bottom line. The Planning Commission's adopted findings omitted the library. Staff said so before the appellants did, and the Council's proposed finding fixes it.

What the letters argue. Ms. Richter asserts the surrounding area was never defined or inventoried, that the applicant substituted "adjacent" for "surrounding," that the applicant failed to acknowledge the library, that the application contains no detailed landscape plan, and that the appeal report's acknowledgment falls short of establishing compatibility. She further argues that the applicant reads "development" too narrowly by confining it to the physical improvement, that housing and preparing aircraft for flight is itself a human-made

change to real estate, and that reading "development" in isolation gives no meaning to "operating characteristics."

Staff response. Staff does not defend the finding as it was written. The characterization that surrounding uses are industrial and aviation in character on all sides is broader than the record supports, and the Exhibit B finding does not mention the library. Staff stated this in the August 18, 2026 City Council staff report. The proposed Criterion 7.d finding before the Council identifies the library among the surrounding uses, states its distance from the nearest ramp area, and addresses compatibility with it directly.

The assertion that the applicant failed to acknowledge the library is not supported. Section B.8 of the May 4, 2026 memorandum is titled Brookwood Library and addresses noise, visual impacts, and view loss, giving distances, intervening development, buffer depths increasing from 70 to 125 feet moving south, and berm heights of 4 to 5 feet. Supplemental Staff Report No. 4 addressed the library at length. What was missing was a finding, not a record.

The assertion that there is no detailed landscape plan is likewise not supported. Revised landscape plans are at Drawings 052 through 058, with Sheet L301 showing 31 percent parking area canopy coverage with tree types and locations.

Staff corrects one point of its own. At the May 27, 2026 hearing staff stated the library was approved as a conditional use and therefore carried a burden of demonstrating compatibility. That was incorrect. The building was constructed and used as an office, permitted outright under Zoning Ordinance No. 1945 Section 65(3), and the City received Development Review approval for the remodel on March 28, 2007 under Case File No. DR-012-07. A library is a public service use, also permitted outright under Section 65(4). Libraries were not among the conditional uses at Section 65A. The correction does not change the result, because compatibility under Criterion 7.d runs one direction only, evaluating the proposed development against surrounding uses, and assigns no burden to an existing use.

On "surrounding," the CDC does not define the term. It defines *Adjacent* as buildings or uses sited on abutting parcels or lots, or across a street or alley, and not separated by intervening buildings, and defines *Abutting* to exclude properties separated by a street or alley. The library is adjacent to the leasehold and does not abut it. How far beyond that the surrounding area extends is an interpretive question for the Council.

On "*development*." The definition does not carry the reading that Ms. Richter's letter proposes. Every activity it lists is a physical alteration of land: construction or installation of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, and improvements for use as parking. The cross-referenced terms are of the same character. *Construction* is defined as new construction, replacement, or major remodeling of a building or structure, or an enlargement increasing floor area by 10 percent or more and expressly excludes ordinary repair and maintenance. *Building* is defined as a structure having a roof supported by columns or walls, built for the support, shelter, or enclosure of persons, animals, or property. Nothing in the chain reaches the activity conducted on the land.

The CDC defines *Use* separately as "The activity or operation for which land or a structure is designed or constructed, or for which it is occupied or maintained." Reading "development" to include the activity conducted on the land would absorb that definition into the definition of development and leave the separately defined term "use" without work to do.

The example offered in the letter demonstrates the point rather than defeating it. A grass covered taxiing area would be development, because grading and improving the ground is a human-made change to real estate. It would be development on account of the physical alteration, not on account of the aircraft that would taxi on it.

Staff does not read "operating characteristics" out of the criterion. Criterion 7.d evaluates the design and operating characteristics *of the proposed development*, and staff reads operating characteristics to mean how the improvements function in operation, which includes aircraft movement on the leasehold. That reading is set out at the front of this memorandum and is the basis for Condition 45 and the recommended condition.

Issue 6. Number of Based Jets and the Master Plan Forecast

Bottom line. The number of based aircraft is not an approval criterion, and a forecast in a facility plan is not a standard.

What the letters argue. Mr. Mulkey asserts the Port reported 33 based jets as of November 2025, that this proposal would add 30 for a total of 63, and that the 2016 airport master plan reported 49 based jets and forecast 55 for 2026, so the proposal exceeds the forecast.

Staff response. The number of based aircraft is not an approval standard under CDC Section 12.80.040.H. The CDC sets no maximum, and the Development Review criteria do not incorporate the master plan forecast.

Section 33 of the Comprehensive Plan includes the Hillsboro Airport Master Plan among plan documents incorporated by reference into the Comprehensive Plan, listing it without an edition year and referring to the most recent adopted version. Incorporation of a facility plan does not convert a forecast within it into a Development Review approval criterion.

Issue 7. Burden of Proof and Sufficiency of Evidence

Bottom line. The applicant bears the burden. Whether the evidence is substantial is the Council's call on this record.

What the letters argue. Ms. Richter cites CDC 12.70.160.L for the applicant's burden and relies on Oregon Supreme Court and LUBA authority for what it requires, asserting the responses to the Subsection H criteria are conclusions rather than substantial evidence. Mr. Mulkey argues the City may conclude the applicant has not provided sufficient evidence on negative impacts.

Staff response. The introductory sentence of CDC Section 12.80.040.H requires the Review Authority to make findings of fact based on evidence provided that the criteria are satisfied. Whether the record meets that standard for each criterion is a determination for the Council.

Because this hearing is de novo, the Council is not confined to the evidence before the Commission.

Issue 8. Comprehensive Plan Compliance, CDC 12.01.130

Bottom line. The Plan does speak to airport compatibility. The mechanism it names for doing so is an overlay zone the City has not adopted.

What the letters argue. Mr. Mulkey asserts the Council must consider Comprehensive Plan compliance, quoting the first sentence of CDC 12.01.130.A and stopping there.

Staff response. CDC Section 12.01.130.A reads in full:

All use or development of land or structures within the City limits of Hillsboro shall comply with the Hillsboro Comprehensive Plan, the Hillsboro Municipal Code, and applicable regional, State, Federal and local laws. Determination of compliance with regional, State, Federal or local laws shall be made by the applicable regional, State, Federal or local authority responsible for administering the subject law(s). A determination of compliance with such law shall not be a standard or condition of approval, except that proof that mandatory permits have been obtained may be required by specific standards of this Code or as a condition of approval imposed by the Review Authority. Nothing in this Code shall relieve a use or development from compliance with other applicable laws except as provided herein.

Three points follow. First, the approval criteria are those at CDC Section 12.80.040.H, and Comprehensive Plan compliance is not among them. Second, Section 12.01.130 sits in Subchapter 12.01, General Provisions, and is not an approval criterion. Its reference to the Hillsboro Municipal Code is a cross-reference to the balance of the Municipal Code outside Chapter 12, because the Community Development Code is Chapter 12 of that code. Its remaining sentences assign compliance determinations to the agencies that administer the subject law and exclude those determinations from operating as standards or conditions of approval.

Third, where the Comprehensive Plan addresses airport compatibility directly it names its own implementing mechanism. Transportation Policy T 7.10 provides: *“Coordinate with the Port of Portland on the implementation of the Hillsboro Airport Master Plan, including codifying an overlay zone that includes safety and compatibility requirements consistent with state and federal law.”* That overlay has not been adopted and none is mapped on the leasehold.

Staff notes the Plan does not read only one way. Noise Management Policy NM 1.2 directs that compatibility between noise-producing and noise-sensitive uses be ensured through land use designation, zoning, and site design, and the Plan glossary names airports as noise-producing and pollutant-emitting and libraries as noise-sensitive. Transportation Policy T 7.9 promotes airport compatibility by limiting noise-sensitive uses. Policies T 6.3 and ED 2.4 support continued aviation development. These are policy direction implemented through the CDC.

Whether any Comprehensive Plan provision operates as an independent approval criterion here is a question for the Council with the advice of the City Attorney.

Issue 9. Transportation, CDC 12.80.040.H.7.A

Bottom line. This issue is addressed in a separate memorandum prepared by Joseph Auth, PE, Transportation Systems Manager.

Recommended Condition of Approval

Bottom line. The applicant said it would not conduct engine run-ups. This language makes that binding.

Aircraft engine run-ups shall not be conducted on the leasehold. For purposes of this condition, an engine run-up means operation of an aircraft engine at a power setting above ground idle while the aircraft is stationary, and includes operation of an aircraft engine for maintenance, testing, troubleshooting, or diagnostic purposes. Aircraft engine operation on the leasehold is limited to ground idle, taxiing, and pre-departure system checks conducted at ground idle power. The leaseholder shall incorporate this restriction into all tenant agreements and shall post the restriction at the entrance of every hangar. Prior to issuance of the Final Certificate of Occupancy for each hangar, the Planning Division shall confirm installation of the required posting at that hangar. This condition applies for the life of the development. Compliance to be verified by the Planning Division.

Why is the Condition Written This Narrowly

The finding under CDC Section 12.80.040.H.7.e currently rests in part on an applicant statement rather than an obligation. The condition converts it into an enforceable term. Its scope reflects four constraints.

Authority stops at the lease line. An engine run-up is ground-level activity on the leasehold, which is why it can be conditioned when the number of flights cannot.

The criteria are discretionary and undefined. The CDC does not define “operating characteristics,” “surrounding,” or “sufficiently,” and sets no numeric threshold. Compliance is established through identified measures rather than a performance standard.

Three parties hold interests in the site. The Port owns the land, Sky Harbour holds the leasehold and is the permittee, and aircraft owners will be tenants. A condition binds the permittee, but the activity would be performed by a tenant, a contract maintenance provider, or a visiting crew. The tenant agreement and posting requirement reaches them.

Enforcement is complaint-driven. Under CDC Section 12.01.140.A the Director enforces the Code, and under CDC Section 12.01.150 violations are infractions subject to the City’s civil provisions and are declared nuisances abatable under Title 6 of the Hillsboro Municipal Code. The City does not monitor the site, which sits behind security fencing on Port property within an active airfield. A power setting is not observable from the right-of-way, which is

why the condition states affirmatively what engine operation is permitted and why the posting requirement carries a milestone staff can verify.

Staff recommends the findings treat this condition as one of several measures addressing impacts at the eastern edge, together with Condition 45, the landscaped berms, and the setback depths, rather than resting the Criterion 7.e conclusion on it alone.

Development Review Approval Criteria

Both letters characterize the criteria. CDC Section 12.80.040.H reads:

H. Approval Criteria. To approve an application for Development Review, the Review Authority shall make findings of fact based on evidence provided that the following criteria are satisfied:

- 1. The proposal complies with all of the development standards of the base zone, unless a minor adjustment has been approved concurrently with the Development Review application;*
- 2. The proposal complies with any applicable provisions of Subchapter 12.27;*
- 3. The proposal complies with any applicable provisions of Subchapter 12.40;*
- 4. The proposal complies with the applicable development standards in Subchapter 12.50;*
- 5. The proposal complies with any applicable plan district standards in Subchapter 12.60;*
- 6. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable;*
- 7. Additional Criteria for Non-Residential Applications. (including the non-residential portion of a mixed-use development):*
 - a. The transportation system can safely and adequately accommodate the proposed development,*
 - b. Parking areas and entrance-exit points are designed to facilitate on-site vehicular circulation and pedestrian safety and avoid congestion on public streets,*
 - c. Any special features of the site (such as topography, hazards, vegetation, significant natural and cultural resources, etc.) have been integrated into the site development plan,*
 - d. The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and*
 - e. Negative impacts of the development have been sufficiently minimized or mitigated.*

Citation and Reference Discrepancies

These are noted for the record and do not affect the outcome of any issue above.

Section number. Mr. Mulkey's letter cites "CDC 12.080.040.H" in three places. There is no Section 12.080.040. The section is 12.80.040.

Introductory language of Subsection H attributed to Subsection H.7.e. Mr. Mulkey's letter states that H.7.e requires the City to determine that the criteria in Subsection H are met, and separately that H.7.e explains findings must be based on evidence provided. That language is the introductory sentence of Subsection H. Subsection H.7.e reads in full: "Negative impacts of the development have been sufficiently minimized or mitigated." This matters because the letter builds its argument on H.7.e while quoting language from elsewhere.

Negative impacts criterion attributed to Subsection H.7.d. Mr. Mulkey's letter states H.7.d requires the City to address negative impacts, then quotes the text of H.7.d, which addresses compatibility. Negative impacts are at H.7.e.

Number of criteria under Subsection H.7. Ms. Richter's letter states Subsection H contains seven additional discretionary criteria for non-residential applications. Subsection H.7 contains five.

Date of the applicant's memorandum. Ms. Richter's letter refers to a "May 5 memo" from Strata Land Use Planning. The document is the May 4, 2026 memorandum, Exhibit B.3, Section B.9.

Attachments:

- A. Letter from Carrie Richter, Attorney, Bateman Seidel, received August 18, 2026
- B. Letter from Andrew Mulkey, received August 18, 2026