

Narrative

Sarah Richmond of Aloha, Brett Hamilton of Tualatin, and Valerie Pratt of Tualatin (Appellants) all residents of Washington County, Oregon, are requesting an appeal of the Hillsboro Planning Commission's May 27th, 2026 land-use approval decision on Sky Harbour Hangars case file number DR-044-25. All Appellants submitted written comments on the record. The Sky Harbour development, as proposed, would degrade the Appellants' property values and quality of life, as well as harm the health of the environment and the people who live and work near the Hillsboro Airport. For the reasons stated below, the application should be denied.

Note: De Novo Hearing Requested

Basis for Appeal

Our grounds for appeal include approval criteria not met, procedural errors, and inadequate conditions of approval. The procedural errors improperly influenced the outcome of the hearing. Many of the procedural errors can not be remedied after the fact, and a fair hearing will require the inclusion and consideration of evidence currently not in the record, therefore we are requesting a de novo hearing. The Basis for the Appeal includes the arguments, approval criteria, and conditions of approval listed in Attachments A and B, which are incorporated herein by reference.

Approval Criteria Not Met

- The Commission acknowledged during the final motion to approve that CDC 12.80.040.H(7)(e) was not satisfied, yet added a condition of approval intended to partially address the deficiency. Approval cannot be granted unless all applicable criteria are met.
- Even with the added condition of approval, the negative impacts of this development are still not sufficiently minimized or mitigated as required by 12.80.040.H.7.e.
- Due to increased intensity of use, the design and operating characteristics of the proposed development are not reasonably compatible with existing surrounding development and residential land uses under the flight path. 12.80.040.H.7.d. This condition is not met.
- The findings for 12.80.040(H)(7)(d) and (7)(e) are inadequate because they fail to consider the actual surrounding uses and the characteristics of the proposed uses (including jet characteristics, fueling facilities, and hangars, etc.) The surrounding uses include a public library and other office buildings. The impacts associated with the proposed use include noise, jet blast, heat, fumes, and pollution, and the planning commission failed to adequately consider or address those impacts or propose adequate mitigation for the purpose of demonstrating compliance with 12.080.040(H)(7)(d), (7)(e).
- The proposal does not meet the required 12-foot gate width standard for waste/recycling enclosures, and no exception mechanism exists. See CDC 12.50.270.D.2.b.

Procedural Errors

- Failure to evaluate compatibility of surrounding land use per CDC 12.80.040.H.7.d.
- Failure to evaluate negative impacts per CDC 12.80.040.H.7.e
- Lack of substantial evidence that negative impacts have been minimized and mitigated per CDC 12.80.040.H.7. The applicant did not meet their burden of proof.
- The City's Written Order is incomplete. The Planning Commission's Motion to Approve included a Finding that "the negative impacts of the development have not been sufficiently minimized or mitigated". That finding is not included in the Written Order.
- Multiple days of public testimony are missing from the record.
- Failure to hold a second neighborhood meeting as required by the code after a "substantial revision of major elements" per CDC 12.70.100.D
- The timing of the release of public comments did not allow Commissioners adequate time to review the written testimony. The schedule was not adjusted and these concerns were not addressed.
- Failure to include a full copy of the FAA CATEX in the record to demonstrate environmental impacts or lack thereof; the applicant's failure to include the document deprived parties of the ability to review the document and respond and also demonstrates that the applicant failed to meet its burden.
- A copy of the FAA CATEX decision page submitted by the applicant but was not made available to the public during the proceedings; this deprived the parties of the ability to (1) learn about the document's submission, and (2) timely respond to the document during the proceedings.

Procedural Errors - FAA

When structural development occurs at an airport, the FAA provides a process for evaluating potential environmental consequences, including through the NEPA Categorical Exclusion (CATEX) framework. In this case, the way FAA materials were handled, and the way FAA authority was referenced throughout the review, resulted in several procedural errors that affected the completeness of the record and the public's ability to understand the environmental context of the proposal. The following items outline those errors.

The FAA NEPA waiver decision page was distributed to Commissioners on April 8 at the dais. However, the underlying FAA CATEX application that led to the waiver, was not provided to the Planning Commission or the public, and neither of these documents were included in the record. In order to access the full FAA CATEX document, a public records request was required. This request was submitted on May 15, 2026 and fulfilled by the Port of Portland on June 3, 2026 the day after the Planning Commission mailed its notice of decision. This is when we, the Appellants, first became aware that 140 pages of the CATEX document had been withheld. This omission left decision-makers and the public, without access to the underlying information needed to understand how the FAA reached its waiver determination. This incomplete record was inconsistent with CDC 12.70.010.A.2, the purpose of which is "to enable the public to effectively participate in the local decision-making process."

The CATEX document includes responses provided by the Port of Portland that were inaccurate and misleading. Sections addressing circumstances such as noise impacts, air-quality impacts, cumulative impacts, public controversy, and environmental justice were marked in ways that did not accurately reflect

the negative impacts of the proposed development. These inaccuracies led the FAA to issue a NEPA waiver rather than requiring an environmental assessment.

Residents were not informed that the FAA had waived the NEPA review, yet throughout the process, statements such as “only the FAA can regulate air and noise concerns” and references to operational impacts being “regulated by the FAA” were made. Because residents were unaware that the FAA had already waived the NEPA review, this phrasing implied that the FAA would be involved in future evaluations.

In addition, and pursuant to CDC 12.70.110.D.8.d, the City holds explicit authority to “require an applicant to submit additional technical reports” when a “proposal would likely result in significant adverse impacts with respect to noise, toxic or noxious matter, vibrations, odors, heat, glare, air pollution, wastes or other objectionable effects within the development site or immediate surrounding areas;” By failing to exercise this authority, the City missed an opportunity to fully evaluate the negative impacts of the proposal.

Collectively, the procedural errors include: inaccurate information in the CATEX application leading to the NEPA waiver, incomplete documents provided to the City, FAA related documents missing from the record,, and the failure to require technical reports, leaving the record devoid of facts that would be necessary to make an informed land use decision.

Had the process occurred properly, the impact of increased air and noise pollution resulting from the project, which was the most common concern raised by residents, would have triggered the appropriate FAA environmental review.

Additional Errors

- The Sky Harbour proposal is inconsistent with the Hillsboro Airport Master Plan and the Hillsboro 2035 Community Plan.
- The Commission added a condition requiring construction of a six-foot wall after public testimony had closed, and no opportunity was provided for public comment or evidence regarding the feasibility, safety, or regulatory compliance of the required structure. The decision also did not evaluate whether such a wall complies with applicable FAA design and safety requirements.
- Condition 45 is inadequate given the characteristics of the proposed use to demonstrate compliance with CDC 12.80.040(H)(7)(d) and (7)(e).

De Novo Criteria CDC 12.70.180.H.4

A de novo hearing will be necessary to properly evaluate this land use decision, because key documents and evidence were not available to the public and parties at the time of the Planning Commission hearing. The substantial rights of the parties will not be prejudiced by granting a de novo hearing. The request is not necessitated by improper or unreasonable conduct of appellants or by a failure by appellants to present evidence that was available at the time of the initial Type III process

A de novo hearing is necessary to protect the due process rights of the parties and appellant’s rights to a full and fair hearing, which includes the right to timely review and respond to evidence. Because materials were absent from the record or otherwise not made available to the public in a timely manner, the public and parties (including Appellants) did not have an adequate opportunity to review and respond to those documents with rebuttal argument or evidence.

Appellants also seek a de novo appeal hearing for the purpose of responding with additional evidence to the conditions of approval. Without getting into the merits, appellants believe that aspects of the conditions of approval fail to fully address the negative impacts and compatibility of surrounding land uses (CDC 12.80.040(H)(7)(d), (e)). A de novo hearing is required to present evidence that demonstrates the manner in which the existing conditions of approval are inadequate and also evidence for the purpose of addressing negative impacts and compatibility.

The following documents are not in the record and/or did not appear on the publicly available planning commission meeting page:

1. Written testimony submitted on April 7, 2026 and May 26, 2026
2. Applicant Submittal from May 4, referenced in May 27 applicant testimony 2:03:48
3. FAA Final Hillsboro Airport Documented Categorical Exclusion for Sky Harbour Jet Hangars
4. FAA Decision page stamped "Received" by the City on April 8, 2026

Had these items been made available, appellants could have responded to them in a timely manner during the proceedings.

Conclusion

In totality, the errors, misrepresentations, incorrect application of the code, missing evidence, and delays in releasing evidence infringed on the public's right to a fair hearing, and resulted in an adverse decision. We respectfully request a De Novo appeal hearing. Thank you for your consideration in this matter

Addendum

Transcription of Motion to Approve

Final Motion to Approve by Commissioner Thrall-Nash

Starting at [audio recording](#) (timestamp 3:20:45 in the official recording)

"So I put forward a motion to approve Development Review 044-25 Sky Harbour Hangars with the addition of a finding that section 12.80.040.H.e has not sufficiently been satis [sic], has not been sufficiently minimized, the negative impacts of the development have not been sufficiently minimized or mitigated, and in order to sufficiently minimize or mitigate the negative impacts of the noise at the site, we're adding a condition of approval to have the applicant build a masonry or brick, we're going to call it a wall, that runs from hangar 5 up to the entrance of the site along the same fence line that was already proposed, with a minimum height of at least 6 feet."