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To: [Council](#)
Cc: [Ruth Klein](#)
Subject: Appeal Case Nos. APPEAL-001-26 and APPEAL-002-26
Date: Thursday, July 30, 2026 2:01:17 PM
Attachments: [image001.png](#)
[Ltr to City Council 7.30.2026.pdf](#)

Good afternoon. Please see the attached and add it to the record in the above-referenced files.

Regards,

Steve

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July 30, 2026

Via Email

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RE: Appeal Case Nos. APPEAL-001-26 and APPEAL-002-26 – Two appeals of the Planning Commission Order No. 8492 (Case File No. DR-044-25)

City Council Members:

I. Introduction and Summary of the Applicant's Position

This firm represents Sky Harbour, the applicant in Case File DR-044-25. We submit this response to the appeals of Planning Commission Order No. 8492 (the "Order"), which approved the applicant's Type III Development Review for seven aircraft hangars and associated improvements on a 13.70-acre leasehold on Port of Portland land within the Portland-Hillsboro Airport, zoned I-P Industrial Park. The applicant respectfully asks the Council to deny the two appeals and affirm the Order.

II. Community Development Code ("CDC") Standards

Several assignments of error rest on a single premise: that aircraft operations associated with aircraft stored in the hangars constitute an operating characteristic of, or an impact of, the development. The Council should address that premise first because it disposes of a substantial portion of the appeal.

CDC 12.80.040.H.7.d and 7.e are each tied to the defined term "development:"

- (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.

The CDC in turn defines "development" as:

"Any human-made change to improved or unimproved real estate, including but not limited to construction or installation of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials, as well as improvements for use as parking. Within the Significant Natural Resource Overlay (Section 12.27.200), vegetation removal and changes to existing lot boundaries (e.g., subdivisions, partitions, and property line adjustments) are also considered development."

Every item the definition enumerates is a physical, human-made change to real estate: construction, mining, dredging, filling, grading, paving, excavation, drilling, storage of equipment or materials, and parking improvements. Aircraft takeoffs, landings and taxiing operations are not physical alterations of real property and therefore do not constitute "development" under the CDC. They are the operation of personal property by third parties on the airport's airfield and in navigable airspace.

This reading also keeps the review criteria within the City's authority. Aircraft operations, aircraft noise, and aircraft emissions are committed to the Federal Aviation Administration ("FAA").

The applicant does not contend that operating characteristics is an empty phrase. It reaches the on-site, ground level operational attributes of the improvements the applicant will construct: controlled access, 24-hour operation, on-site fueling, ground support equipment movement, lighting, hours, on-site circulation and traffic, waste handling, and security. The Commission's findings evaluate exactly those attributes.

III. Response to the Substantive Assignments of Error

A. Compatibility with surrounding development and land uses (CDC 12.80.040.H.7.d)

Appellants' argument. Appellants contend that the findings ignore the actual surrounding uses, including a public library and offices, and ignore the character of the actual "development." They argue that noise, jet blast, heat, fumes, and pollution make the use incompatible with residents living under the flight path.

Response. Compatibility of the "development" under 7.d is measured against surrounding and abutting land, not against residences located under a flight path. Aircraft in flight are the responsibility of the FAA, and for the reasons given above they are not an operating characteristic of this development. With regard to the surrounding uses, the Order properly considered the actual impacts of the development.

B. Whether negative impacts were sufficiently minimized or mitigated (CDC 12.80.040.H.7.e)

Appellants' argument. Appellants contend that during the final motion the Commission acknowledged that criterion 7.e was not satisfied and added a condition that only partially addressed it; that approval cannot issue unless every criterion is met; that impacts are not sufficiently minimized even with the condition; and that the written Order omits the oral finding that impacts were not sufficiently minimized.

Response. The adopted written findings are the decision, and they find 7.e met. Remarks made in the course of deliberation are not the decision, and a written order is not required to transcribe every deliberative statement. The findings under CDC 12.80.040.H.7.e expressly provide "This criterion is met."

C. Waste and recycling enclosure gate width (CDC 12.50.270.D.2.b)

Appellants' argument. Appellants contend that the proposal does not provide the required 12-foot gate width and that no exception mechanism exists.

Response. Although not carried through as a condition of approval, the applicant has acknowledged this requirement and will meet this requirement at building permit stage. The applicant would welcome a condition of approval requiring compliance with this standard.

D. Public Notice

Appellants' argument. Appellants contend that the city did not send notice to all required parties, implying that notice was required to be sent to every property owner within 500 feet of the entire airport.

Response. The CDC does not require notice to be provided to that broad of an area. CDC 12.70.050.F.1.c. provides that written notice must be sent to

“Owners of record of properties within 500 feet of the perimeter property line of the property or properties subject to the application, using the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation to determine the property owner(s) of record[.]”

The CDC does not define “property,” but the CDC clearly provides that in the context of this requirement, “property” refers to the tax lot upon which the development is proposed. Indeed, the notice section itself requires that the notice include the “map and tax lot number and site address, if available.” Similarly, notice of the decision must include the “map and tax lot number.” To be clear, the Hillsboro Airport is comprised of several tax lots, with the largest being Tax Lot 1N2280001550—the tax lot subject to the application and the tax lot from which the 500 feet notice requirement was derived. Notice was properly sent.

E. Traffic impact analysis (CDC 12.70.220)

Appellants' argument. Appellants contend that staff waived a full traffic impact analysis and that there is no evidence that “additional traffic can be safely and adequately accommodated.”

Response. The applicant's trip generation memorandum demonstrates that projected trips do not trigger a traffic impact study under CDC 12.70.220.A, and the findings conclude that the functional capacity of NE Brookwood Parkway is retained. No requirement was waived as a matter of discretion; the threshold requiring a study was simply not met.

Traffic safety is addressed independently of the study threshold. All site traffic is routed to an existing signalized intersection, and the unsignalized curb cut is removed. Condition 4 requires sight distance certification, Condition 5 requires curb cut replacement, and Condition 40 requires signal activation as directed by Washington County. There is no basis to suggest that the transportation system is inadequate to accommodate 32 additional peak pm hour trips.

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Conclusion

The appeals do not establish any error in the Planning Commission's decision or findings. The record demonstrates compliance with the applicable CDC approval criteria, and the findings are supported by substantial evidence.

Accordingly, the applicant respectfully requests that the City Council deny the appeals and affirm Planning Commission Order No. 8492. The applicant anticipates submitting additional testimony and evidence prior to the hearing and reserves the right to supplement the record and arguments presented herein.

Sincerely,



Steven P. Hultberg

cc: Client
Ruth Klein